

01 STATEMENT UNDER OATH
02 OF
03 GARY M. BROWN
04
05
06 Taken pursuant to Notice by Autumn D.
07 Furby-Pritt, a Court Reporter and
08 Notary Public in and for the State of
09 West Virginia, at the Department of
10 Environmental Protection, 1101 George
11 Kostas Drive, Logan, West Virginia,
12 on Friday, February 24, 2006, at 1:05
13 p.m.

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06 C.A. PHILLIPS

07 EUGENE WHITE
08 BETH SPENCE
09 DENNIS BEITER
10 DERRICK TJERNLUND
11 CHARLES POGUE
12 ANTHONY BURKE
13
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01 P R O C E E D I N G S

02 -----

03 MR. BEITER:

04 Good afternoon. My

05 name is Dennis Beiter. I

06 represent the Mine Safety and

07 Health Administration, which

08 is an agency of the United

09 States Department of Labor. I

10 am a member of MSHA's

11 investigation team that is

12 charged with investigating the

13 accident that occurred at the

14 Aracoma Coal Company,

15 Incorporated, Aracoma Alma
16 Mine Number One, on January
17 19th, 2006.

18 This is a joint
19 investigation that MSHA is
20 conducting with the State of
21 West Virginia. I will be
22 asking the questions for MSHA
23 in today's interview. With me
24 here today are other members
25 of MSHA's team and the State's

8

01 team. MSHA's team includes
02 various specialists and
03 members of the Solicitor's
04 office. At this time I would
05 like to ask each of the
06 members of MSHA's team to
07 identify themselves for the
08 record.

09 ATTORNEY BARISH:

10 Hi. My name is Dan
11 Barish with the Solicitor's
12 office in Arlington, Virginia.

13 MR. MURRAY:

14 I'm Kenny Murray from
15 Pikeville, Kentucky.

16 MR. FRANCAERT:

17 Bill Francart,
18 Pittsburgh, Pennsylvania.

19 MR. BURKE:

20 Tony Burke, MSHA,
21 Whitesburg, Kentucky.

22 MR. TJERNLUND:

23 Derrick Tjernlund, Tech
24 Support, Triadelphia.

25 MR. POGUE:

9

01 Charlie Pogue, MSHA,
02 Hunker, Pennsylvania.

03 MR. STAHLHUT:

04 Ron Stahlhut, MSHA,
05 Vincennes, Indiana.

06 MR. WEBB:

07 Anthony Webb,
08 Pikeville, Kentucky.

09 MR. BEITER:

10 I work for MSHA's Tech
11 Support group out of
12 Triadelphia, West Virginia, in
13 the Ventilation Division. And
14 Mr. Murray is the team leader
15 for MSHA's investigation team.

16 Also here with us today
17 are representatives of the
18 State of West Virginia. Mr.
19 Bill Tucker will be asking

20 questions for the State. And
21 at this time, Mr. Tucker will
22 introduce himself and the
23 remainder of the members of
24 the team.

25 MR. TUCKER:

10

01 Mr. Brown, I need to
02 read a brief statement to you.
03 The West Virginia Office of
04 Miners' Health, Safety &
05 Training is conducting this
06 interview session jointly with
07 MSHA, and we are in agreement
08 with the procedures outlined
09 by Mr. Beiter. However, let
10 me make it clear that the
11 Director reserves the right,
12 if necessary, to call or
13 subpoena witnesses or require
14 the production of any record,
15 document, photograph or other
16 relevant materials necessary
17 to conduct this investigation.
18 Again, my name is Bill Tucker,
19 and I work out of the Oak Hill
20 office, and that's in Region
21 Four.

22 MR. PHILLIPS:
23 C.A. Phillips,
24 Charleston, West Virginia.

25 MR. WHITE:

11

01 Eugene White, district
02 inspector out of Region Three.

03 MR. COX:

04 Steve Cox, Region
05 Three.

06 MS. SPENCE:

07 Beth Spence with the
08 Governor's office.

09 ATTORNEY BARISH:

10 This may be a good time
11 to put on the record the same
12 confidentiality agreement.
13 This is not disclosed outside
14 this investigation.

15 MR. TUCKER:

16 We don't really have to
17 do that each time.

18 ATTORNEY BARISH:

19 Okay. As long as it's
20 on the record, that's for all
21 of them. That's fine.

22 MR. BEITER:

23 This investigation is
24 being conducted by MSHA and

25 the State of West Virginia to

12

01 gather information to
02 determine the cause of the
03 accident and to help prevent
04 this from happening in the
05 future. These interviews are
06 an important part of this
07 investigation.

08 After the investigation
09 is completed, MSHA will issue
10 a written report detailing the
11 nature and causes of the
12 accident. MSHA accident
13 reports are made available to
14 the public in the hope that a
15 greater awareness about the
16 causes of accidents can reduce
17 their occurrence in the
18 future. Information obtained
19 through witness interviews is
20 frequently included in these
21 reports. Your statement may
22 also be used in other
23 enforcement proceedings.

24 I would like to thank
25 you in advance for your

13

01 appearance here today. We
02 appreciate your assistance in
03 this investigation. The
04 willingness of miners and mine
05 operators to work with MSHA is
06 critical to our success in
07 making the nation's mines
08 safer.

09 This interview with Mr.
10 Mike Brown is being conducted
11 under Section 103(a) of the
12 Federal Mine Safety and Health
13 Act of 1977 as part of an
14 investigation by the Mine
15 Safety and Health
16 Administration into the
17 conditions, events and
18 circumstances surrounding the
19 fatalities that occurred at
20 the Aracoma Mine Number One,
21 located at Route 17 North
22 Bandmill Hollow Road,
23 Stollings, West Virginia,
24 25646. This interview is
25 being conducted at the State

14

01 of West Virginia Department of
02 Environmental Protection,
03 Division of Mining and

04 Reclamation, at 1101 George
05 Kostas Drive, West Virginia,
06 25601, on February 24th, 2006.

07 Mr. Brown, the
08 interview will begin by asking
09 you a series of questions.

10 Please feel free at any time
11 to clarify any statements that
12 you make in response to those
13 questions. After we finished
14 asking these questions, you
15 will also have an opportunity
16 to make a statement of your
17 own and provide us with any
18 other information that you may
19 believe to be important that
20 we have not asked you at that
21 time --- or up to that time.

22 You are permitted to have a
23 representative with you during
24 this interview, and you may
25 consult with your

15

01 representative at any time.
02 You may designate any person
03 to be your representative.
04 The choice of who your
05 representative is is yours.

06 Following the questions by
07 MSHA and the State, this
08 representative will be given
09 the opportunity to ask
10 questions for the purposes of
11 clarification on the areas
12 that have already been
13 discussed. Your statement is
14 completely voluntary. You may
15 refuse to answer any question
16 and you may end your interview
17 at any time. If you do not
18 understand a question, please
19 tell me and I will try to
20 rephrase the question so that
21 we have an answer that
22 addresses the question being
23 asked. If you need a break
24 for any reason, please let us
25 know and we'll take a break.

16

01 You may request the
02 opportunity to make a
03 confidential statement which
04 will be withheld from the
05 public to the extent allowed
06 by law. Should you desire to
07 give a confidential statement,
08 you should advise me before we

09 begin your interview so that I
10 can reschedule your interview
11 in order to properly consider
12 your request. Do you want to
13 have a confidential interview?

14 MR. BROWN:

15 No.

16 MR. BEITER:

17 A court reporter will
18 record your interview and will
19 later produce a written
20 transcript of the interview.
21 I ask that you state all your
22 answers verbally because the
23 court reporter cannot record
24 gestures like nodding your
25 head or shaking it no.

17

01 Neither the transcript of this
02 interview nor the content of
03 the interview will be released
04 to the public or the media
05 until MSHA's final accident
06 investigation report is issued
07 or until required by court
08 order or until a public
09 hearing takes place.

10 If any part of your

11 statement is based not on your
12 own firsthand knowledge but on
13 information that you learned
14 from someone else, please let
15 us know. Please answer each
16 question as fully as you can,
17 including any information that
18 you learned from someone else
19 about the question being
20 asked. We may not ask the
21 right question to learn the
22 information that you have, so
23 do not feel limited by the
24 precise questions that are
25 being asked you. If you have

18

01 information about the subject
02 area of a question, please
03 provide us with that
04 information. Do you know what
05 subject area means?

06 MR. BROWN:

07 Yeah.

08 MR. BEITER:

09 Do you have any
10 questions about the manner in
11 which this interview will be
12 conducted?

13 MR. BROWN:

14 Could you repeat that?

15 MR. BEITER:

16 Yes. Do you have any

17 questions about how the

18 interview is going to be

19 conducted?

20 MR. BROWN:

21 No.

22 MR. BEITER:

23 Will you please swear

24 Mr. Brown in?

25 -----

19

01 GARY M. BROWN, HAVING FIRST BEEN DULY

02 SWORN, TESTIFIED AS FOLLOWS:

03 -----

04 BY MR. BEITER:

05 Q. Please state your full name,

06 address, telephone number, and please

07 spell your last name for the record.

08 A. Gary Michael Brown, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12 Q. Thank you, Mr. Brown.

13 A. You're welcome.

14 Q. Is it all right if I call you

15 Mike?

16 A. Sure.

17 Q. Thank you. Are you appearing
18 voluntarily at this interview?

19 A. Yes.

20 Q. Has anyone made any promises
21 to you for giving this statement or
22 offered you any rewards in exchange
23 for making this statement?

24 A. No.

25 Q. Has anyone threatened you or

20

01 warned you not to provide this
02 statement?

03 A. No.

04 Q. Do you understand that you may
05 refuse to answer any question or
06 terminate, end this interview at any
07 time?

08 A. Yes.

09 Q. Do you have a representative
10 with you today?

11 A. Yes, I do.

12 Q. Could you please identify him?

13 A. Mark Heath.

14 Q. When did you first meet Mr.
15 Heath?

16 A. My goodness. I don't know
17 specific days. It's been --- I don't
18 know the specific day. I don't know.

19 ATTORNEY HEATH:

20 It's been weeks.

21 A. Yeah, it's been weeks.

22 BY MR. BEITER:

23 Q. Is it safe to say it was after
24 the accident?

25 A. Yes, it was after the

21

01 accident.

02 Q. How did this meeting come
03 about?

04 A. I was called to the office for
05 him to tell me that I would be
06 interviewed. He informed me that I
07 would have to be interviewed --- or
08 would be interviewed.

09 Q. Who contacted you to inform
10 you of that?

11 A. I can't remember who called
12 me. I was in the dispatcher's office
13 at the time, and I don't know who ---
14 I can't recall who it was.

15 Q. Was it someone from MSHA?

16 A. No, it was one of --- it was
17 one of the company's representatives.
18 It was one of my bosses, I should
19 say, that told me I needed to come to
20 the --- if you've been around the

21 mine site. I was in the box cut. I
22 was called on the mine phone from one
23 of my people --- one of the company's
24 people and they asked me to come up
25 to talk to Mark.

22

01 Q. That same day?

02 A. Yes.

03 Q. Do you realize you have a
04 choice in whoever represents you?

05 A. Yes.

06 Q. And did you make the decision
07 to choose Mr. Heath as your
08 representative?

09 A. Yes, I did.

10 Q. What exactly did Mr. Heath
11 tell you about whether he would be
12 your representative?

13 A. He just said I had a choice of
14 who I could choose as my
15 representative. It could be anyone
16 he said. And he said --- he offered
17 himself. He said, I would go if you
18 would like, and I agreed with that.

19 Q. Thank you. Have you been
20 aware that Mr. Heath also represents
21 the company in this matter and that
22 there is a potential for conflict of
23 interest to arise between yourself

24 and the company?

25 A. Yes.

23

01 Q. Do you want to proceed with

02 Mr. Heath representing you, despite

03 any potential conflicts of interest?

04 A. Yes.

05 Q. Did Mr. Heath discuss with you

06 what was going to take place in

07 today's interview?

08 A. Yes, he did.

09 Q. And could you elaborate on

10 that conversation?

11 A. He told me that --- he

12 described the room to me, where

13 everyone will be sitting, how the

14 questions would be asked, how they

15 would be handed to the court reporter

16 and then asked me. And he --- pretty

17 much he told me who would be here and

18 ---.

19 Q. Just to help you get

20 comfortable with the scene?

21 A. Yes.

22 Q. Thank you. Did you attend a

23 meeting at a local grade school?

24 A. No.

25 Q. Were you aware of a meeting

01 that occurred at a local grade
02 school?

03 A. Yes.

04 Q. Did anybody call you to notify
05 you about it?

06 A. No.

07 Q. Did you find out before the
08 meeting or after the meeting that
09 there was a meeting?

10 A. Before.

11 Q. Were you interviewed by the
12 company or a representative of the
13 company before today?

14 A. No.

15 Q. No one has spoken to you about
16 the accident?

17 A. Yes.

18 Q. Could you elaborate?

19 A. They asked me what took place
20 that night. It was a --- it was
21 employees. It wasn't an official.
22 It was just us sharing conversation.

23 Q. Other employees of Aracoma
24 Mine?

25 A. Yes.

01 Q. Thank you. How long have you
02 worked at the Aracoma Alma Mine

03 Number One?

04 A. I started on the 28th of

05 August, so ---.

06 Q. Of last year?

07 A. Yes, 2005.

08 Q. August 2005?

09 A. Yes.

10 Q. Thank you. What was your

11 classification when you were hired

12 on?

13 A. I was just a red hat. I

14 walked with the beltman. I was

15 inside for the --- until the week of

16 Thanksgiving of 2005, and then they

17 moved me to the dispatcher's office.

18 Q. Your classification prior to

19 being at --- you're classified a

20 dispatcher now?

21 A. Yes.

22 Q. And what was your

23 classification prior to that?

24 A. I don't even know if I had

25 one, to be honest.

26

01 Q. And you're currently a red hat

02 now?

03 A. Yes.

04 Q. Are you a member of

05 management?

06 A. No.

07 Q. Are you employed by a

08 contractor?

09 A. Yes.

10 Q. Could you identify that

11 contractor?

12 A. Yes, Universal Coal, I think

13 it's Incorporated, Universal Coal,

14 Incorporated, or Apollo Mining.

15 Q. Were you employed by that

16 contractor on the date of the

17 accident as well?

18 A. Yes, sir.

19 Q. And you described also having

20 another job beside your dispatcher

21 job at the mine. Did you hold any

22 other jobs at the mine besides those

23 two?

24 A. No.

25 Q. How many total years of mining

27

01 experience have you had?

02 A. I haven't had a year yet.

03 Q. This is your first job at a

04 coal mine?

05 A. Yes. Yes.

06 Q. What are your responsibilities

07 as dispatcher?

08 A. To monitor the traffic
09 withinside the mine and also hand out
10 cap lights. When there isn't a
11 warehouse person on the property, I'm
12 in the warehouse, hand out the
13 supplies. And I also have to monitor
14 the belts and the CO monitors.

15 Q. I've been in a box cut, but
16 I'm not really familiar with
17 everything that's down there. You
18 come down the elevator and you get
19 off the elevator and you're looking
20 straight ahead out of the workshop,
21 and on the right-hand side there's a
22 couple offices --- at least a couple
23 offices --- I'm going to say offices.
24 The dispatcher's office is the last
25 door on the right; is that correct?

28

01 A. Yes.

02 Q. And then one door back from
03 that is the lamp room?

04 A. The lamp house, yes.

05 Q. And what I understand is
06 there's a door that connects those
07 two rooms that's inside in the back
08 end of the dispatcher's office so
09 that you could actually travel from

10 the dispatcher's office into the lamp
11 room?
12 A. Yes.
13 Q. And you said the warehouse.
14 Where is the warehouse located?
15 A. The warehouse is in between
16 those two points, in between the lamp
17 house and the dispatcher's office.
18 Q. So there's actually a
19 separation by another room by the
20 warehouse itself between the
21 dispatcher's office and the lamp
22 house?
23 A. Yes.
24 Q. And it's not like there's one
25 wall between the two of them, the

29

01 same wall?
02 A. No. No.
03 Q. When do you --- you said you
04 work in those other two locations.
05 To get into the warehouse, how do you
06 get into the warehouse from the
07 dispatcher's office?
08 A. The door leading from the
09 dispatcher's office leads right into
10 the warehouse.
11 Q. And then from the warehouse
12 into the lamp room?

13 A. Yes.
14 Q. So you actually pass through
15 the warehouse on your way to the lamp
16 room?
17 A. Yes.
18 Q. There's not like a hallway
19 behind the two ---?
20 A. No. No.
21 Q. Okay. About what portion of
22 your time do you spend on any given
23 day away from your desk in the
24 dispatcher's office?
25 A. To pinpoint a time, it's ---

30

01 all together or at one time?
02 Q. Well, I guess kind of describe
03 it a little bit.
04 A. Okay. When I come on duty ---
05 when I relieve the other dispatcher,
06 the other dispatcher goes to the lamp
07 house and hands out lamps for the
08 crew that's coming on.
09 Q. And at that time, you're in
10 the dispatcher's office?
11 A. I'm at the dispatcher's
12 office, yes. When he leaves, I have
13 to hand out supplies to the men
14 that's coming. There's a door

15 separating us and them that keeps
16 them out of the warehouse so we can
17 hand out supplies. And I would say
18 I'm there probably 15 to 20 minutes
19 handing out supplies.

20 Q. Is that after the dispatcher
21 who you relieved has gone?

22 A. Yes. And then the same thing
23 occurs when the other dispatcher
24 comes on.

25 Q. You'll go over and hand out

31

01 the lights?

02 A. Yes.

03 Q. And he'll man your station at
04 the dispatcher's office while you're
05 handing out those lights?

06 A. Most of the time I don't know
07 why it's been chosen this way, but
08 he'll go over and hand out lights.

09 Q. And you just stay in the
10 dispatcher's office on both ends of
11 yours, in the beginning and the end?

12 A. Right. Yeah.

13 Q. Do you also have to go into
14 the warehouse during the day if
15 somebody called out for parts or
16 supplies?

17 A. Yes.

18 Q. And what would be like the
19 longest length of time that you've
20 had to work in the warehouse or away
21 from your dispatcher's office since
22 you've been working as a dispatcher?
23 Let me clarify that. Not while
24 you're --- not while there's another
25 dispatcher on duty at the beginning

32

01 or end of your shift, but in between,
02 while you're there by yourself.

03 A. While I'm by myself?

04 Q. Yes.

05 A. Okay. The longest time is
06 when I'm handing supplies out to the
07 men that haven't gone underground
08 yet. I would say 15 to 20 minutes.

09 Q. When you're in the lamp house,
10 there's an audible alarm, as I
11 understand, and a visible alarm
12 concerning the CO monitoring system?

13 A. In the lamp house?

14 Q. No, in the dispatcher's
15 office.

16 A. Yes.

17 Q. When you're in the lamp house,
18 can you hear or see the audible or
19 visible alarm for the CO system?

20 A. No.

21 Q. Could you hear it?

22 A. No.

23 Q. When you are in the warehouse,
24 could you hear or see the alarms for
25 the CO system?

33

01 A. It's according to where I was
02 at in the warehouse. If I was at the
03 door handing out supplies, yes. But
04 if I was back in the warehouse, no.
05 If I was deeper into the warehouse,
06 no.

07 Q. There's not a light over there
08 that is activated and like a strobe
09 light flashes when there's an alarm
10 that goes off over here?

11 A. No.

12 Q. No? And you couldn't hear
13 anything from that office unless you
14 were standing near the door at the
15 front, closest to the door from the
16 dispatcher's office ---

17 A. Yes.

18 Q. --- from the warehouse? Is
19 that correct, from the warehouse?

20 A. The closer to that door I am,
21 the more capable of me hearing the
22 alarm, yeah.

23 Q. Do you work straight shifts?
24 Do you know what I mean by straight
25 shifts? Like are you always on

34

01 dayshift? Are you always on
02 afternoon shift, that being a
03 straight shift? Do you always work
04 afternoon shift?

05 A. No. I work --- I come on at
06 2:00, get off at 11:00, except for
07 Friday and Saturday, I work 5:00 to
08 5:00. I work 5:00 in the evening to
09 5:00 in the morning.

10 Q. So outside of that shift that
11 you work 5:00 to 5:00, you're always
12 on afternoon shift?

13 A. Yes.

14 Q. And could you --- you probably
15 said this, but I wasn't --- I was
16 thinking about the next question and
17 didn't hear you. What's your normal
18 shift's times?

19 A. 2:00 to 11:00, from 2:00 in
20 the evening until 11:00 at night.

21 Q. Thank you. Who is your
22 immediate supervisor?

23 A. Fred Horton. He's the mine
24 foreman on the second shift.

25 Q. Does Fred always work on your

35

01 shift?

02 A. Yes.

03 Q. He doesn't rotate shifts?

04 A. No.

05 Q. On the shift that you worked

06 at 5:00, who was your supervisor

07 then?

08 A. Fred Horton half and Tom

09 Adkins the second half, because I'm

10 in between shifts.

11 Q. I understand. I guess back to

12 the question on your responsibilities

13 as dispatcher. You described handing

14 out supplies as needed and --- well,

15 you wouldn't necessarily be handing

16 out the lights, but one of the two

17 dispatchers who was there on the

18 overlap would be handing out lights.

19 What other duties do you have?

20 A. To clean the warehouse and

21 sweep the office and keep it --- just

22 keep it clean. Keep the warehouse

23 and the lamp house and the office

24 clean.

25 Q. So when you're cleaning the

36

01 warehouse, would you still be in the

02 same situation that you were, handing
03 out supplies where, depending on
04 where you were in that warehouse, you
05 would be able to hear the alarm or
06 you would not be able to hear the
07 alarm?

08 A. Yes.

09 Q. At any time, other than
10 hearing the alarm, in either the
11 warehouse or the lamp house, could
12 you ever see a visual alarm being
13 activated from either of those rooms?

14 A. No.

15 Q. No matter where you were in
16 either of those rooms?

17 A. Uh-uh (no).

18 Q. What kind of training have you
19 received from the company or any
20 other persons regarding the
21 Pyott-Boone Fire Detection System?

22 Do you know what I mean by

23 Pyott-Boone Fire Detection System?

24 A. The CO monitoring system?

25 Q. Yes.

37

01 A. When they first hired me as a
02 dispatcher, I was told to --- this is
03 the training I received. I'm going

04 to tell you what they told me. When
05 I was hired as the dispatcher,
06 brought out from underground as a
07 dispatcher, I was told that when an
08 alarm would go off, I was to
09 acknowledge the alarm and then
10 contact someone in the vicinity of
11 that alarm, of that CO monitor.

12 Q. What do you mean by
13 acknowledge the alarm?

14 A. On the computer screen there's
15 a cursor, which is controlled by the
16 mouse. You move the cursor, click on
17 the box and it opens to the larger
18 window, and it will tell you --- it
19 shows a little more information about
20 the CO. And you --- it has
21 acknowledge on there. And when you
22 acknowledge it, it turns on and off,
23 and then I go from there to proceed
24 to call somebody.

25 Q. I have some photographs. We

38

01 had the opportunity a few days ago to
02 visit a dispatcher's office. I say
03 we, members of the accident
04 investigation team. I didn't myself
05 personally. And they took some
06 photographs. And I don't know if you

07 were there or not when --- you were
08 there when they took them, so you
09 know what we're talking about. And
10 they're Exhibit E Brown, Exhibit F
11 Brown and Exhibit G Brown. And
12 they're just photographs of the
13 screen for the CO monitoring system
14 that captures the three different
15 views. As I understand it, there's
16 three separate map views that you can
17 see on the screen. And maybe we can
18 just use some of these as an example.
19 (Brown Exhibit E marked
20 for identification.)

21 BY MR. BEITER:

22 Q. So this is Exhibit E. And I
23 guess could you just describe for me
24 what all is on the screen?

25 A. Exhibit E shows the Rum Creek

39

01 belts, the overland belt and belts
02 one through four and the CO monitors
03 that lined that belt.

04 Q. And the CO monitors that line
05 the belt are in the rectangular boxes
06 beneath the belts?

07 A. Yes.

08 Q. Beneath the blue lines that

09 are representative of the belt
10 flights?
11 A. Yes.
12 Q. And the numbers that are above
13 those rectangular boxes ---?
14 A. Are the numbers of each CO
15 monitor.
16 Q. So like the first one down on
17 ---
18 A. Is 1. ---.
19 Q. --- is ---
20 A. 1.30.
21 Q. --- 1.30?
22 A. Yes.
23 Q. So that would be 30 sensor for
24 CO?
25 A. Yes.

40

01 Q. And the most inby one on this
02 picture is 40, ---
03 A. Yes.
04 Q. --- CO sensor?
05 A. Uh-huh (yes).
06 Q. And some of them have a ---
07 there's different words in the boxes
08 and there are also different colors.
09 And the box for 30 sensor says CO
10 off, and there's no color in it. Can
11 you explain to us what that means?

12 A. That monitor is turned off.
13 It's not in working order.
14 Q. And by turned off, do you mean
15 --- what do you mean by turned off?
16 A. I would say there was no power
17 to it.
18 Q. Okay. If you go on up the
19 belt flight two there's a sensor
20 there that's 33 CO sensor. And the
21 box underneath that sensor is gray
22 shaded and it says CO dead. Could
23 you tell me what that means?
24 A. As far as I know, it means
25 that it needs replaced.

41

01 Q. Do you have any idea what it
02 --- the sensor needs replaced or
03 communication failures or ---?
04 A. That's all that I know, that
05 it would need replaced or ---.
06 Q. Moving on up the line there,
07 at the inby end of belt Four flight
08 that's shown on this picture is
09 sensor 40 that we discussed earlier.
10 And the box below it says CO zero,
11 and the box is colored green. And
12 could you describe what the green
13 color means?

14 A. That's a properly working CO
15 monitor.
16 Q. Okay. And the CO zero is
17 what?
18 A. No CO2 is present at that
19 area. It's reading no CO --- that
20 monitor is reading no CO.
21 Q. Zero stands for zero in parts
22 per million?
23 A. Yes, zero parts per million.
24 Q. Carbon monoxide?
25 A. Exactly.

42

01 Q. There's another exhibit here,
02 Exhibit F. And if you could ---
03 pretty much you did a good job of
04 describing what was on Exhibit E
05 there. Could you kind of describe
06 what you see on Exhibit F?
07 (Brown Exhibit F marked
08 for identification.)
09 A. Yes. This is the --- the belt
10 is leading to Three section and Two
11 section. And it also has the CO
12 monitors on it.
13 BY MR. BEITER:
14 Q. And I can see that same 40 CO
15 monitor on the flights not numbered
16 as four, but the next flight in by

17 that that is numbered as Five. And
18 that 40 sensor is the same 40 sensor
19 that's on the previous screen; ---
20 A. Yes.
21 Q. --- is that correct?
22 A. Yes.
23 Q. And there's several --- the
24 belt lines are all --- all the
25 flights of the belt appear to be

43

01 colored blue. And is that indicative
02 of anything? Does that tell you
03 anything about the operation of that
04 belt?
05 A. It's not operational. It's
06 not moving. It's not ---.
07 Q. The blue color tells you that?
08 A. Yes.
09 Q. What color would it be if it
10 was operational?
11 A. It's been so long, I can't
12 remember. I think it's green.
13 Q. It's green if it's
14 operational, it's blue if it's not.
15 Do you have another screen, another
16 computer system that monitors belt
17 operation?
18 A. Yes, sir.

19 Q. And when that screen changes
20 color, does that screen change color
21 with the operation of individual
22 belts?

23 A. I can't recall.

24 Q. The gray color, it appears to
25 me that this is a three section belt

44

01 that has CO sensors 55 through 59; is
02 that correct?

03 A. Yes.

04 Q. And those belt flights,
05 there's three belt flights there and
06 they're gray in color. Does that
07 gray color indicate anything to you?

08 A. Yes.

09 Q. And what does that ---?

10 A. The section belts are the only
11 ones that we can turn off on this
12 computer. The main line belt, the
13 belts labeled number five six-foot
14 head and number six six-foot head ---

15 Q. Yes.

16 A. --- we cannot turn off on this
17 screen.

18 Q. Okay.

19 A. The gray ones we can turn off
20 on this screen.

21 Q. And how would you do that?

22 A. By clicking the mouse cursor
23 on the arrow, designating the belt.
24 Q. On the specific flight of belt
25 that you wanted to turn off?

45

01 A. Yes. And it would pop a
02 window up saying belt boss monitor
03 and belt boss head or something to
04 that effect, and we're able to stop
05 it and start it there, and it also
06 has an alarm showing you why a belt
07 might be off a gob or a trip switch
08 or ---.

09 Q. I can understand.

10 A. But the blue we cannot. We
11 can't operate that way.

12 Q. There's a little UPS disc that
13 says --- a little box here above
14 Number Five flight that says UPSs
15 disc and it's red and there's a
16 sensor --- appears to be a sensor
17 number above it that's 1.14. Can you
18 explain what that is?

19 A. Not with a clear answer, no.

20 Q. Have you seen that?

21 A. Yes.

22 Q. Is it always red?

23 A. No.

24 Q. What color is it normally?

25 A. It will go green, too.

46

01 Q. Okay. What other colors

02 besides gray and no color and green

03 do you see for the CO sensors?

04 A. Red and yellow.

05 Q. And what are they?

06 A. Yellow is warning and red

07 reads fire.

08 Q. Yellow is warning and red

09 reads fire?

10 A. Yes.

11 Q. Is fire synonymous with alarm

12 to you? Does alarm mean anything to

13 you, ---

14 A. Yes.

15 Q. --- the word alarm?

16 A. Yes.

17 Q. Is that differentiated between

18 alarm and fire?

19 A. Yes, it is, because it can

20 alarm and just be a warning. Just

21 yellow it can alarm.

22 Q. Okay. Let me back up. I'm

23 not making myself clear.

24 A. Okay. I'm sorry.

25 Q. No, my fault. Alert and

47

01 warning are both synonymous, okay.
02 And then there's an alarm, okay.
03 Once the CO reaches a certain point,
04 the system goes into an alert; is
05 that correct? Let me just back up.
06 What would cause an alarm situation?
07 What would cause a warning situation
08 and a yellow light at one of the CO
09 sensors?
10 A. The CO reading one to five
11 parts per million. I think it alarms
12 at five parts per million. It gives
13 an audible alarm.
14 Q. An audible. Does it give a
15 visual as well?
16 A. Yes, yellow. It flashes green
17 to yellow, green to yellow.
18 Q. And that visual alarm is
19 where? Where do you see that visual
20 alarm?
21 A. Inside the monitor box.
22 Q. If you don't have the screen
23 up for the --- each of these screens
24 --- we haven't looked at the third
25 screen yet, G --- or Exhibit G, but

48

01 each screen pretty much has its own
02 area of sensors depicted ---?

03 A. We'll use --- if 1.40 is
04 alarming and you're on another screen
05 ---.
06 Q. Say you were on screen under
07 Exhibit G, because 40 is not depicted
08 on Exhibit G.
09 A. The window for 1.40 would pop
10 up.
11 Q. On the screen of Exhibit G ---
12 A. Yes.
13 Q. --- that doesn't contain 40 as
14 a sensor?
15 A. Yes.
16 Q. And then how do you get to
17 that location?
18 A. I would click map to, ---
19 Q. Click map to, which is a ---
20 A. --- which would bring me ---.
21 Q. --- little button up at the
22 top hand of the screen that you just
23 use the mouse click and click it?
24 A. To change the map, yes.
25 Q. And that changes the map

49

01 that's visible on your screen so that
02 you can see where 40 is on the ---
03 A. Yes, on the belt line.
04 Q. --- belt line?
05 A. Yes.

06 Q. What would you do at that
07 point? It's flashing yellow.
08 A. I would acknowledge it.
09 Q. And how do you do that?
10 A. You click on it with a mouse.
11 Q. Click on the CO box?
12 A. Yes, that represents the ---.
13 Q. That's flashing yellow ---
14 green, yellow, green, yellow?
15 A. Yes. If it was 40, ---
16 Q. Yes.
17 A. --- I would click the box that
18 represents that CO, and it would
19 bring up the window on that screen,
20 and then I would proceed to call
21 someone in that vicinity of a beltman
22 or foreman or whoever I know is in
23 that vicinity --- close to that
24 vicinity to acknowledge it, to go
25 see ---.

50

01 Q. When you acknowledge it, what
02 does it do? What happens when you
03 acknowledge it?
04 A. It takes off --- when I click
05 on the CO, it brings up the larger
06 window. When I acknowledge it, that
07 larger window goes away and it

08 flashes. It don't flash yellow,
09 green anymore, it flashes yellow,
10 black.
11 Q. Yellow, black?
12 A. Yes.
13 Q. Which means that you ---
14 A. That I've acknowledged it.
15 Q. --- have identified that you
16 noticed it?
17 A. Yes.
18 Q. Do you make an entry in a
19 record book?
20 A. Yes.
21 Q. So each time the thing --- the
22 system goes into a warning mode, have
23 you been --- you make a record of
24 that in a record book, which we have
25 a copy of and we'll present it later

51

01 and we'll discuss some things with
02 you; is that correct?
03 A. Yes.
04 Q. Have you been instructed to do
05 that?
06 A. Yes.
07 Q. By who?
08 A. Kirby Puett, the dispatcher
09 that trained me as a dispatcher.
10 Q. And when was that training

11 received?
12 A. I want to say November 19th.
13 I'm trying to remember the week after
14 Thanksgiving. That was the day I
15 started.
16 Q. Have you received any other
17 training in addition to what Kirby
18 has ---
19 A. No.
20 Q. --- provided you? No?
21 A. No.
22 Q. Has your supervisor provided
23 you any training?
24 A. No.
25 Q. Has your supervisor had

52

01 conversations with you that you may
02 not consider as training but
03 instructions to tell you what is
04 expected from you in your job
05 capacity as monitoring the CO system?
06 A. I'm trying to recall. I would
07 say yes.
08 Q. Would you have any remembrance
09 of what those conversations may have
10 entailed?
11 A. It was the same. It was
12 pretty much the same. He just asked

13 me what I would do if that did take
14 place. And I told him what I just
15 told you, I would acknowledge the CO
16 going off and then I would contact
17 the beltman or whoever is in that
18 vicinity of the CO.

19 Q. Did he ever tell you that you
20 should evacuate anybody in the mine
21 at any given point on your own,
22 without calling anybody?

23 A. The night of the accident?

24 Q. No. During any of these
25 conversations.

53

01 A. No.

02 Q. I guess this conversation that
03 you were describing, was that before
04 the accident or after the accident?

05 A. After.

06 Q. It was after the accident?

07 A. I'd say after. You need it
08 before.

09 Q. I don't need it. I just want
10 to know what it is.

11 A. I'm sorry.

12 Q. Don't be sorry. So you don't
13 remember any instructions that you
14 received outside of --- from Mr.
15 Puett prior to the accident on

16 January 19th, 2006?

17 A. That's it.

18 Q. We went through this whole

19 process with the alert, ---

20 A. Uh-huh (yes).

21 Q. --- with the warning and the

22 yellow box, okay. If CO

23 concentration at that sensor location

24 increases, do you know if there's any

25 other thing that occurs on your

54

01 screen? You said at about five parts

02 per million you get an alert or a

03 warning, ---

04 A. If it goes ---.

05 Q. --- flashing yellow, green,

06 yellow, green, you acknowledge and it

07 goes yellow, black, if the CO

08 continues to increase ---?

09 A. It will pop back up.

10 Q. And what color does it go to

11 then?

12 A. Red.

13 Q. Red. Does it stay red? Does

14 it flash red? Does it go ---?

15 A. If I acknowledge the red, ---

16 Q. Yes.

17 A. --- it's just like the yellow,

18 it goes --- it will go red, black,
19 red, black.

20 Q. Okay. When you acknowledge
21 the alarm, does the audible alarm
22 cease to sound as well?

23 A. Yes.

24 Q. Does it resound when the ---
25 if you acknowledge the alarm --- I'm

55

01 sorry. If you acknowledge the
02 warning, the yellow box became
03 yellow, black, instead of yellow,
04 green, and it continued to rise in CO
05 concentration until the point was
06 reached that it went into alarm and
07 was flashing red, does an audible
08 alarm resound as well?

09 A. Yes.

10 Q. And does that also stop
11 sounding when you acknowledge the
12 alarm condition?

13 A. Yes. Yes.

14 Q. Were you provided --- or did
15 you do anything different when you
16 receive an alarm condition than when
17 you received a warning condition as
18 far as what your actions were upon
19 receiving that alarm?

20 A. It's awkward to the person

21 responding to the CO. If they have
22 went to that area ---

23 Q. Yes.

24 A. --- and they inform me that
25 there's nothing wrong, they'll reset

56

01 the monitor from where they're at,
02 and the monitor will go back to
03 green. If it is a situation, he'll
04 inform me what's going on or he'll
05 try to contact the foreman at least
06 if there's smoke or if there is CO2
07 in that area.

08 Q. So you said under the alarm
09 condition you'll --- I'm sorry, under
10 the warning condition, you'll notify
11 someone underground?

12 A. Yes.

13 Q. Maybe you said this already,
14 but maybe you didn't and I forgot.
15 Who is the person that you would
16 contact?

17 A. The beltman or someone in that
18 vicinity. Maybe there's someone
19 working there or ---.

20 Q. Do you ever call a supervisor
21 or do you call a supervisor first?

22 A. No. No, I wasn't --- I wasn't

23 told to call a supervisor first, no.

24 Q. Have you ever seen the term

25 responsible person in any kind of

57

01 information that's been provided to

02 you?

03 A. Not prior to this, no.

04 Q. So you wouldn't have been

05 aware that there was a responsible

06 person that you were --- I guess I'm

07 asking you. Were you aware that

08 there's a responsible person

09 identified that you were to contact

10 in the event of an emergency? Were

11 you aware of that prior to this?

12 A. Oh, yes.

13 Q. You were? And who would that

14 person be?

15 A. It would be the mine foreman

16 that night.

17 Q. But yet you said on --- and

18 I'm not trying to confuse you. I'm

19 just trying to understand better.

20 And maybe I misunderstood you, so

21 clarify it if I did. If you received

22 an alarm or an alert on a CO sensor,

23 you would call underground and notify

24 a belt walker or someone else that

25 was in that vicinity, but not

01 necessarily a foreman or not
02 necessarily a supervisor?
03 A. No.
04 Q. But in the event of an
05 emergency, you would contact the mine
06 foreman?
07 A. Yes.
08 Q. Do you not consider a warning
09 or an alarm an emergency from a CO
10 sensor? I guess the reason I'm
11 asking you is because you describe
12 this set of actions that you'll take
13 under conditions that show up on a
14 screen on a computer, and this set of
15 conditions. And I asked you about an
16 emergency situation. And I'm just
17 trying to understand if, in your
18 mind, there's a difference between
19 the CO alarm going off and an
20 emergency situation.
21 A. This is how I was told to
22 respond to it.
23 Q. I'm just asking for
24 clarification.
25 A. Okay.

01 Q. Don't take it offensively.

02 A. Okay.

03 Q. And again, you received

04 instruction from Kirby Puett. And is

05 he the one who told you that this is

06 how you're supposed to respond or was

07 there someone else that did?

08 A. I can't remember if it was

09 Kirby or someone else. I can't

10 remember.

11 Q. I think I understand what

12 you're saying.

13 A. Okay.

14 Q. Have your dispatcher duties

15 changed since the accident occurred

16 on January 19th, 2006?

17 A. Yes.

18 Q. In what way?

19 A. We have to track everyone that

20 goes underground now by name, whereas

21 we didn't have to before.

22 Q. Any differences in how you

23 respond to alerts or alarms on the CO

24 system?

25 A. They've just recently turned

01 them back on from Rum Creek up to

02 Three section. So they haven't been

03 on ---.

04 Q. Recently, you mean by ---

05 excuse me. I'm sorry. Go ahead,
06 finish. You said they haven't been
07 on for a while just until recently,
08 since the accident?
09 A. Right. Probably --- I'd say a
10 week or ---.
11 Q. Have you been provided any
12 instructions that would cause you to
13 respond differently than prior to the
14 accident now that they've been turned
15 back on?
16 A. I was only asked what I would
17 do. And what I told them, they
18 agreed with that.
19 Q. So by them not giving you
20 further instructions, you understand
21 that the information that you told
22 them on your actions that you would
23 take was adequate as far as they were
24 concerned?
25 A. Yes.

61

01 Q. Could you tell us who that
02 person was, if you remember?
03 A. I've had several people ask,
04 so I don't ---.
05 Q. Supervisors, management
06 personnel?

07 A. Yes. Fred Horton asked me.

08 Q. Okay.

09 A. I don't --- I guess Robert
10 Ellis would fall in supervisor's
11 position. I'm not for sure. But
12 Robert Ellis asked me. And that's
13 all I guess I can remember of
14 management, but I've had employees
15 ask me.

16 Q. When was that --- those
17 questions were asked after the fire?

18 A. Yes.

19 Q. Prior to yesterday?

20 A. Yes.

21 Q. I guess I moved on a little
22 bit too quick before when I was
23 describing what you told me your
24 actions were for the alarm or warning
25 levels being indicated on your

62

01 computer screen for the CO sensors
02 and one set of actions being
03 appropriate for that and another set
04 of actions being appropriate for an
05 emergency situation. I asked you if,
06 in your mind, you differentiated
07 between those two incidents, and I
08 guess I didn't hear an answer.

09 A. With the information I've been

10 told, yes, I'd make a difference in
11 it, yes, with the information I've
12 been told.

13 Q. And that was prior to the
14 accident ---

15 A. Yes.

16 Q. --- you had the same thought
17 process? And after the accident,
18 it's still the same thought process?

19 A. No.

20 Q. Did that change because of
21 what someone instructed you or
22 because of what you realized?

23 A. Because of what I realized.

24 Q. In their questions, whoever
25 the gentlemen were that asked you

63

01 what your actions would be and you
02 told them between the accident and
03 today, was that made clear to them
04 that you would respond differently or
05 you would respond differently today
06 than you would have before the
07 accident for alert and alarm
08 conditions? Maybe I'm making an
09 assumption.

10 A. Would you clarify that?

11 Q. I understand you said that

12 before the accident you saw things
13 differently than you did after the
14 accident with regard to an emergency
15 and the alert and alarms being
16 activated from the CO sensors. And
17 you told me that people asked you
18 questions about how you would respond
19 and you told them that by their not
20 giving you further instructions, you
21 understood that it was an adequate
22 response; is that correct?

23 A. Yes.

24 Q. And what you told them when
25 you responded to their question about

64

01 what you would do, what did you tell
02 them that you would do, if you can
03 remember? Was it similar to what ---
04 I'll just try and make it easier for
05 you. Was it similar to how you would
06 have responded prior to the accident
07 or is it similar to how you would
08 respond now, what you told them you
09 would do, if you remember?

10 A. I can't remember. I'm not
11 sure.

12 Q. That's okay. Thank you. Are
13 all the belt walkers electricians; do
14 you know?

15 A. I don't know. I don't know.
16 Q. When they reset the alarm, the
17 sensor, what, do they just push a
18 button on it and it resets it?
19 A. I don't know that either.
20 Q. Okay. Does it show up on your
21 screen?
22 A. Yes. It would turn back to
23 green.
24 Q. Back to green. And by then
25 you know that something was done?

65

01 A. Yes.
02 MR. TUCKER:
03 If you could speak up,
04 if you don't mind. We're
05 having a little bit of trouble
06 hearing you. We appreciate
07 it.
08 A. Okay. I'm sorry.
09 MR. TUCKER:
10 That's okay.
11 BY MR. BEITER:
12 Q. Does the beltman always call
13 you back? After, say, he's reset it
14 and it turns back green on your
15 screen, does he always respond back
16 to you?

17 A. Yes.

18 Q. How long does it take
19 sometimes from the time you call
20 somebody to get ahold of them when
21 you see an alarm going off? How long
22 does it take sometimes to get ahold
23 of somebody? What's the longest it's
24 ever taken you? I know it's just an
25 estimate. Do you ever have

66

01 difficulty of reaching somebody on
02 the phone at times?

03 A. Yes.

04 Q. Do you try to call somebody
05 else?

06 A. Yes.

07 Q. Has there ever been a time
08 when you've never gotten anybody?

09 A. Yes.

10 Q. What did you do?

11 A. I would proceed to get someone
12 else. I would try and get someone.
13 But there has never been a time that
14 I haven't got ahold of someone.
15 Maybe I didn't understand what you
16 said. But if I would call a
17 particular person and they wouldn't
18 call, I would call someone else until
19 I got someone.

20 Q. Thank you for clearing that
21 up. Has a beltman ever called back
22 and told you that he's found a fire?
23 A. Prior to ---?
24 Q. Prior to the accident on the
25 19th of January.

67

01 A. Yes.
02 Q. When he says he's found a
03 fire, does he say there's flames or
04 does he --- smoke or ---?
05 A. Smoldering. He said it was
06 smoldering.
07 Q. Smoldering?
08 A. Yes.
09 Q. Smoldering, like in embers?
10 Did he elaborate?
11 A. Not that I can recall, no. He
12 just said it was smoldering.
13 Q. Did he ask you to take any
14 actions?
15 A. Yes.
16 Q. What did he ask you to do?
17 A. He asked you to contact the
18 supervisor that night, the foreman
19 that night.
20 Q. The mine foreman?
21 A. Yes.

22 Q. Do you remember his name?

23 A. Yes, Dave Meade.

24 Q. Dave Meade ---

25 A. Yes.

68

01 Q. --- was the mine foreman or

02 the belt walker that ---?

03 A. He was the mine foreman, Dave

04 Meade.

05 Q. Dave Meade was?

06 A. Yes.

07 Q. Do you remember who the belt

08 foreman was --- I mean, the belt

09 walker?

10 A. Wyatt Robinson.

11 Q. Wyatt Robinson?

12 A. Yes.

13 Q. Do you remember an approximate

14 time frame of when this would have

15 been?

16 A. No, I can't remember.

17 Q. Before Christmas?

18 A. I'd say yes.

19 Q. Do you remember which belt,

20 main north ---?

21 A. It was on the six-foot belt.

22 Q. On the six-foot belt flights

23 in the main north?

24 A. Yes. I can't recall.

25 Q. You said there was smoke

69

01 involved?

02 A. Yes.

03 Q. Did he say any action that he
04 was going to take, did he let you
05 know what those were? By actions I
06 mean, like you know, water ---?

07 A. Once I contacted the --- yeah,
08 they used a fire extinguisher on it.

09 Q. Prior to calling you or after
10 they called you, after ---?

11 A. I can't recall if he told me.
12 I can't recall if he told me. I
13 responded to the alarm and I
14 contacted him, and they were away
15 from me and they had to come to it.
16 I can't recall if he done it before.
17 He called me back to call the foreman
18 or --- I can't recall that.

19 Q. That's okay. Do you know ---
20 on that instance, do you recall how
21 long it took approximately to get
22 ahold of somebody and then how long
23 it took for them to call you back and
24 say, you know, here's what it was?

25 A. No, I'm not for sure. I don't

70

01 know.

02 Q. Do you recall if there was

03 more than one sensor involved in the

04 alert and alarms on that night --- or

05 on that afternoon?

06 A. Yes, I believe.

07 Q. There were additional sensors?

08 A. I believe so, yes.

09 Q. Do you know who has the

10 authority to evacuate people from the

11 mine on your shift?

12 A. I assume it's the foreman.

13 Q. Do you have that authority?

14 A. I don't know how to answer

15 that. I wasn't told --- I was ---.

16 Q. Has anyone ever told you not

17 to evacuate anybody from the mine?

18 A. Not to, no.

19 Q. Has anybody ever told you that

20 if you see a condition that causes

21 you alarm or concern, that you can

22 evacuate people from the mine before

23 you call someone else?

24 A. Prior to the 19th, no.

25 Q. Prior to the 19th.

71

01 A. No.

02 Q. Since the 19th, since the

03 accident, have you been told

04 different?

05 A. No. The night --- no.

06 Q. If you receive an alarm from

07 the activation of a water sprinkler

08 system on the belt drive, there's

09 some --- you know, I'm going to save

10 that question because we're going to

11 look at some of these here printouts

12 from the CO thing. And I know

13 there's some on there to show that,

14 and maybe you can hit it then; is

15 that okay?

16 A. That's fine.

17 Q. In the gray boxes that say CO

18 dead, you said you called a beltman

19 for those two?

20 A. No.

21 Q. You don't?

22 A. No.

23 Q. Do you call anybody about

24 those?

25 A. No.

72

01 Q. If you had like five of them

02 in a row that all went dead, do you

03 call someone on those?

04 A. If they went dead on my shift,

05 I would call someone, yes. If I just

06 saw them dead, I would call someone
07 to see why, yes.
08 Q. If they were already gray when
09 you came on, gray meaning CO dead,
10 would you ---?
11 A. I would question about it,
12 yes.
13 Q. You would want to make sure
14 that you understood; is that correct?
15 A. Yes.
16 Q. If you called someone --- have
17 you ever called someone because you
18 saw a CO dead sign on a sensor?
19 A. On one?
20 Q. Yes.
21 A. No.
22 Q. On more than one?
23 A. Yes.
24 Q. And did you call a beltman for
25 that?

73

01 A. Yes.
02 Q. And did they respond back to
03 you after they investigated?
04 A. Yes.
05 Q. Do you happen to recall what
06 they found?
07 A. The power was pulled maybe or
08 I believe --- I'm trying to remember.

09 Q. That's okay.
10 A. I believe he said the power
11 was turned off to those COs.
12 Q. To those specific sensors?
13 A. Yes.
14 Q. Okay. Do you know where the
15 sensors are located underground for
16 the CO system?
17 A. As far as knowing where each
18 one is, no. But I know where they
19 --- they put them on the rib.
20 Q. They put them right along the
21 rib?
22 A. Yes. Along the belt line,
23 yes.
24 Q. And I presume that --- and
25 correct me if I'm wrong, that you may

74

01 not know where they are physically
02 underground, but by looking at your
03 schematic on your screen, you know
04 what centers were on what belt
05 flights?
06 A. Yes.
07 Q. I guess that was supposed to
08 be a question. Is that correct? So
09 you do understand that by the
10 sensor's changes on the screen?

11 A. Yes.

12 Q. Thank you. Do you know which

13 way the air flow directions are in

14 the belt entries?

15 A. I'd have to answer no.

16 Q. Is there any indication on

17 your screens that shows what

18 direction the belt air flow is?

19 A. No.

20 Q. Is there a mine map in your

21 dispenser's office?

22 A. Yes.

23 Q. Do you know what's depicted on

24 that mine map?

25 A. To an extent, yes.

75

01 Q. Could you just explain to what

02 extent you understand the information

03 that's presented on that map?

04 A. I know where the belts are

05 located on the map, the --- on the

06 map, I know the --- the map that we

07 have in the office, I can show you

08 the return air.

09 Q. On the back side of your ---

10 on the wall in the dispatcher's

11 office?

12 A. Yes.

13 Q. Is that map correct?

14 A. No. It's not up to date.
15 Q. Does it depict the longwall
16 and its retreat to the point that it
17 is now in Nine head gate?
18 A. No.
19 Q. Is the belt still in the same
20 entry that it was on development?
21 A. No.
22 Q. Just your understanding of the
23 mine --- by your understanding of the
24 mine, you know what entry the belt
25 actually is in now; is that correct?

76

01 A. Yes. Yes.
02 Q. Does it depict the last flight
03 of belt for Two section on the map
04 that is shown on --- I guess it's the
05 top one here, Exhibit F, the gray
06 areas and you come down and sensor
07 1.75 is at the belt tail of Two
08 section? Actually, that's at the
09 belt tail of the last flight of belt
10 --- 48-inch belt on the northeast.
11 And then the next flight inby, 177
12 sensor, 179 sensor are the two on the
13 Two section. Does the map depict
14 mining progressed into that area of
15 the mine?

16 A. No.

17 Q. Okay. Had anybody instructed
18 you as to what direction the air flow
19 is on those belt entries prior to the
20 accident?

21 A. I'm trying to recall if I was
22 told --- when I was hazard
23 trained, ---

24 Q. Yes, sir.

25 A. --- I believe so, yes.

77

01 Q. But do you remember those
02 directions now?

03 A. No.

04 Q. Did you remember those
05 directions back in January?

06 A. I'd say no.

07 Q. The map that we've talked
08 about on the wall, I might have asked
09 you that. But if I didn't, are there
10 any air flow directions depicted on
11 that map?

12 A. It's color coded, yes.

13 Q. With arrows? How is it color
14 coded?

15 A. No. It's blue and yellow.

16 It's continuous blue and yellow.

17 It's not by arrows. If they are on
18 there, I can't see them because

19 they're too small.

20 Q. So the different entries ---
21 the different air courses are just
22 colored different colors?

23 A. Yes.

24 Q. Do you know if anybody updates
25 the ventilation controls on that map?

78

01 A. I'd have to say no. I was
02 hired in August, and they've not
03 changed.

04 Q. Okay. Do you think that
05 knowing the air flow direction on
06 those belt entries would be an
07 important piece of information in the
08 event of an emergency?

09 A. Yes.

10 Q. Do you know if the CO sensors
11 are powered by a UPS, an
12 uninterrupted power supply? I guess
13 in the event of a power loss for the
14 mine-wide power system, is there like
15 a battery-type power source that
16 powers the CO sensors? Do you know
17 if that's the case?

18 A. I'm not for sure. I don't
19 know.

20 Q. Do you know if the power goes

21 off to the mine if the system
22 continues to operate?
23 A. I've never been in that
24 situation, so I don't know. No, I
25 don't know.

79

01 Q. You've never been there when
02 the ---
03 A. I've never been told, no.
04 Q. --- power has been turned off
05 or been aware that the power has been
06 turned off so that you would be able
07 to know that; is that correct?
08 A. Right.
09 Q. So this little UPS disc down
10 here, you're not sure if that means
11 that UPS is the uninterrupted power
12 supply?
13 A. That would be my guess now,
14 but no, it wasn't prior to ---.
15 Q. It would be mine, too, Mike.
16 A. It wasn't prior to this, no.
17 Q. Now it would be mine, too.
18 That's okay. And I'm just wondering
19 if the red there means that that
20 doesn't work anymore? Is that what
21 that's telling you?
22 A. I would say it's disconnected,
23 yes.

24 Q. Okay. Thank you. How do you
25 contact ---?

80

01 ATTORNEY HEATH:
02 You might ask if that
03 means the sensor or the UPS
04 doesn't work, ---

05 MR. BEITER:
06 Yes.

07 ATTORNEY HEATH:
08 --- if he knows that.

09 MR. BEITER:
10 Thanks, Mark.

11 BY MR. BEITER:
12 Q. If the red means that the UPS
13 power source --- if the UPS stands
14 for the UPS --- is the uninterrupted
15 power supply. If when it turns red,
16 that just means that that UPS unit is
17 not functional as opposed to the
18 whole system not being functional?

19 ATTORNEY HEATH:
20 No. What I meant, does
21 that mean that sensor is a
22 problem or is the unit itself?
23 That's what I meant.

24 MR. BEITER:
25 Good question.

01 A. I haven't been told, no.

02 BY MR. BEITER:

03 Q. That will be a good question

04 for somebody else.

05 MR. BEITER:

06 Thanks, Mark.

07 BY MR. BEITER:

08 Q. How do you contact sections in

09 case of an emergency?

10 A. Each section has a phone that

11 has an audible and a visual alarm on

12 it. Each phone, I can punch in the

13 code and it sets the alarm off and

14 the light. A light flashes in that

15 section, and I continue to call until

16 I get ahold of someone.

17 Q. Have you ever had any trouble

18 with it not working?

19 A. No.

20 Q. What if nobody answered the

21 phone, what would you do?

22 A. If no one answered on that

23 section, I would get ahold of the

24 mine foreman.

25 Q. Have you ever heard of the

01 Mine Emergency Evacuation and

02 Firefighting Program of Instruction?

03 That's a mouthful of words, I know.
04 Mine Emergency Evacuation and
05 Firefighting Program of Instruction,
06 have you ever seen that anywhere?
07 A. Prior to January 19th, no.
08 Q. Prior to January 19th.
09 A. No.
10 Q. No. Have you seen it since?
11 A. Yes.
12 Q. When did you see it?
13 A. Yesterday.
14 Q. Is yesterday the first time
15 since you became a dispatcher that
16 you were aware that there was a Mine
17 Emergency Evacuation and Firefighting
18 Program of Instruction?
19 A. Through the training that I
20 took to get my apprentice card, we
21 were told of this. But as far as
22 this property goes, no.
23 Q. You'll have to help me with
24 that. This property, meaning working
25 at Aracoma Alma Mine Number One?

83

01 A. Yes.
02 Q. And the training you received
03 wasn't through Aracoma Mine Number
04 One, ---

05 A. No.

06 Q. --- it was through who?

07 A. The S&B Mining, the lady in
08 Gilbert that I got my apprentice
09 card, an eight-hour class.

10 Q. When was that?

11 A. April of 2005.

12 Q. Thank you. Are you aware now
13 that you have responsibilities
14 according to that plan?

15 A. Yes.

16 Q. And you understand that as a
17 result of what, your instructions
18 that you received yesterday?

19 A. Yes.

20 Q. How do you contact the mine
21 foreman?

22 A. On the mine phone.

23 Q. When you punch in the code to
24 contact the sections, dial the phone
25 number basically, I guess, ---

84

01 A. Yes.

02 Q. --- what type of audible tone
03 occurs on the section phone; do you
04 know?

05 A. It's a --- I don't want to ---
06 it's a beeping sound. It's a beeping
07 sound.

08 Q. An intermittent, pulsing-type
09 sound?
10 A. Yes.
11 Q. Is it pretty loud?
12 A. Yeah. You can hear it over
13 the phone, yes. I've never been on
14 the section when it went off, but you
15 can hear it over the phone, yes.
16 Q. Do you know where those phones
17 are located?
18 A. No.
19 Q. I have a --- I told you I had
20 some other exhibits. We're probably
21 kind of using like all of them
22 simultaneously here, but maybe you
23 can kind of bear with me and we'll
24 get through it.
25 (Brown Exhibit A marked

85

01 for identification.)
02 BY MR. BEITER:
03 Q. Exhibit A Brown is a copy of a
04 black and white composition notebook
05 that --- are you familiar with this
06 notebook?
07 A. Yes.
08 Q. And it's identified as CO
09 logbook one?

10 A. Yes.

11 Q. Is that a book that you're
12 familiar with?

13 A. Yes.

14 Q. And how would you be familiar
15 with that book?

16 A. When the CO monitor goes off,
17 we are to write it in that book and
18 how we responded to it and the date.

19 Q. And just for the record,
20 because we'll probably be referring
21 to these easier, there's Aracoma
22 stamp numbers on it, each page, and
23 they go from Aracoma 002832 through
24 Aracoma 002846 inclusive.

25 A. Okay.

86

01 Q. And that's Exhibit A. We're
02 going to use it.

03 (Brown Exhibit B marked
04 for identification.)

05 BY MR. BEITER:

06 Q. And then there's also ---

07 Exhibit B is a copy of the CO
08 printouts, CO system printouts. And
09 are you familiar with pages similar
10 to this?

11 A. Yes.

12 Q. Okay. And this Exhibit B goes

13 from January 18th, 2006, at 1952:07
14 hours through January 24th, 2006,
15 1742:57 hours. And I guess we'll
16 probably just use a combination of
17 these. I'm going to ask you if
18 you'll start at the back on the last
19 page of Exhibit A. Aracoma 002846 is
20 the identifying number for that page.
21 I have to read it upside/down a
22 little bit, so ---. The last entry
23 in the book is for 1/19/06?
24 A. Uh-huh (yes).
25 Q. And did you make that entry?

87

01 A. Yes, I did.
02 Q. And the second column has
03 numbers that are what? What are
04 those numbers that appear in the
05 second column?
06 A. Those are the numbers for each
07 monitor ---
08 Q. The CO monitor ---.
09 A. --- that appear above the
10 monitors on the screen, yes.
11 Q. So they would identify which
12 sensors underground ---
13 A. Yes.
14 Q. --- were being information

15 recorded about those sensors in this
16 book?
17 A. Yes.
18 Q. And the next column, it says
19 fire?
20 A. Yes.
21 Q. Is this up here ---?
22 A. That's the parts per million
23 that it read.
24 Q. Thank you. I wasn't sure what
25 that was. So that says 107 ---

88

01 A. Yes.
02 Q. --- parts per million CO?
03 A. Yes.
04 Q. And do you recall what sensor
05 that that was being reported on?
06 A. The 1.82.
07 Q. 1.82. And if we could look at
08 the ---. Too far.
09 (Brown Exhibit C marked
10 for identification.)
11 BY MR. BEITER:
12 Q. Exhibit C, sensor 1.82 appears
13 to be on the Nine head gate longwall
14 belt, ---
15 A. Yes.
16 Q. --- the mother drive, mother
17 belt?

18 A. Yes.

19 Q. And it's the first sensor

20 closest to the mother drive --- or I

21 mean, the mother belt head, the

22 longwall belt head; is that correct?

23 A. Yes.

24 Q. And that 107 parts per million

25 CO, was that the 82 sensor at the

89

01 belt head, is that the highest that

02 sensor ever reached?

03 A. Yeah, that's the highest it

04 reached.

05 Q. Do you know what is the

06 largest number that can be recorded

07 by ---?

08 A. 107.

09 Q. 107?

10 A. Yeah, from my own experience.

11 Q. So do you recall how rapidly

12 that sensor reached the 107?

13 A. Within minutes.

14 Q. Within minutes of its first

15 alarm?

16 A. Yes.

17 Q. Within minutes of its first

18 warning?

19 A. Yes.

20 Q. And you have recorded in the
21 next column fire --- maybe you could
22 read it, please.
23 A. Fire at storage unit at mother
24 drive. That's what the beltman
25 reported to me.

90

01 Q. And what beltman was that?
02 A. Bryan Cabell.
03 Q. Okay. I'm going to come back
04 to several of those things, but I
05 want to go through on --- did you
06 receive a phone call from Mr. Cabell
07 that night concerning this?
08 A. Yes.
09 Q. Did he call you before any of
10 these alarms were activated?
11 A. While it was activated.
12 Q. After it was initially
13 activated? Eight-two (82) sensor is
14 the first one you have listed here.
15 And let's just go to Exhibit B as
16 well. And Exhibit B on --- it says
17 1/19 --- I'll pull it over here for
18 you. I'm just going to read it
19 first. On 1/19/06, 1736:34 is the
20 time stamp from the computer. I'm
21 just going to put an arrow here so
22 that I can keep my place when I'm

23 looking upside down.

24 A. Okay.

25 Q. And I'm identifying where

91

01 sensor --- and maybe you can tell me

02 what this means, okay. This is the

03 date, the time, sensor location is

04 82; is that correct?

05 A. Yes.

06 Q. And that's a CO monitor?

07 A. Yes.

08 Q. And as we said previously,

09 that's a CO monitor at the belt head

10 for the longwall belt. And I see the

11 next indication is a warning ---

12 A. Yes.

13 Q. --- of three parts per

14 million; is that correct?

15 A. Yes.

16 Q. And then the next entry is

17 that same minute, just a matter of 19

18 seconds later; is that correct?

19 A. Yes.

20 Q. And it's an alarm with an

21 indication of nine parts per million

22 CO; is that correct?

23 A. Yes.

24 Q. So within 20 seconds it went

25 from a warning to an alarm; is that

92

01 correct?

02 A. Yes.

03 Q. And then I see the next entry

04 --- I'm going to have to mark over

05 here, too, okay. And if I'm marking

06 something that's not correct on here,

07 if you would let me know when I do

08 that, okay.

09 A. Okay.

10 Q. The next entry is at 1738:44,

11 which is just less than a couple

12 minutes after the alarm at 82, sensor

13 81 goes into a warning, is that

14 correct, ---

15 A. Yes.

16 Q. --- with five parts per

17 million CO?

18 A. Yes.

19 Q. And less than a minute after

20 that, just seconds after that, that

21 same 81 sensor goes into an alarm and

22 it indicates nine parts per million

23 CO; is that correct?

24 A. Yes.

25 Q. And sensor 81 is located where

93

01 in reference to sensor 82?

02 (Brown Exhibit G marked
03 for identification.)
04 BY MR. BEITER:
05 Q. Let's look at this as Exhibit
06 G, and 82 is at the belt head for the
07 longwall belt, and 81 is located ---
08 does this appear to be located near
09 the tailpiece for the 72-inch belt?
10 A. Yeah, the number seven
11 six-foot belt, yes.
12 Q. Number seven six-foot belt?
13 A. Yes.
14 Q. So that's the sensor for the
15 tailpiece of the number seven
16 six-foot belt?
17 A. Yes.
18 Q. And these both came through
19 --- they came through relatively in
20 rapid succession; is that fair to
21 say?
22 A. Yes.
23 Q. Did you receive a call from
24 Mr. Cabell prior to these warnings?
25 A. They occurred together. When
01 the alarms were going off, ---
02 Q. Yes.
03 A. --- he called.

04 Q. Before you had a chance to
05 acknowledge the alerts --- the
06 warnings and the alarms, or did you
07 have ---?

08 A. When it alarmed, I got up and
09 I acknowledged it and he started
10 calling on the phone.

11 Q. When the first warning came
12 through from sensor .82?

13 A. Yes.

14 Q. Does your system keep track of
15 when you acknowledge things; do you
16 know?

17 A. I'm not for sure. I don't
18 know.

19 Q. Okay. Could you tell me what
20 Mr. Cabell's conversation with you
21 was at that time?

22 A. His first initial call, he
23 hollered for Fred Horton, the mine
24 foreman. And as he's hollering for
25 Fred, when he can't get Fred, he

95

01 hollers at me. And I answer and I
02 say, yes, Bryan, and he said, I need
03 to get ahold of Fred Horton. And
04 when I proceeded to tell him --- I
05 was going to tell him about the
06 alarms, Fred got on and they

07 conversed. I wasn't ---.
08 Q. Did you listen to that
09 conversation?
10 A. Yes.
11 Q. Could you describe what you
12 heard?
13 A. Bryan said that he seen smoke.
14 And Fred asked him what was wrong,
15 and he said that one of the --- I'm
16 just using their terms.
17 Q. Yes.
18 A. I don't know what this stuff
19 is, but he said one of the dollies
20 were cocked sideways. To me, that
21 means nothing. I don't know what all
22 that stuff is. But anyways, he told
23 him that, and he said he would need a
24 chain hoist. And he said he
25 couldn't, at that time, see where the

96

01 smoke was coming from, but he was ---
02 he'd get back to Fred, he'd find out.
03 And it wasn't long after that that -
04 -- at this point I thought, well,
05 there's no use in telling him, he
06 knows what's happening. He's right
07 there at the CO monitor where it's
08 at. He knows what's happening. So

09 he went to --- it wasn't long after -
10 -- I don't know how many minutes or
11 how long it took place, but he
12 hollered at Fred again. Fred must
13 have stayed at the phone because they
14 talked with each other. He told Fred
15 that --- he said, I can't get to it,
16 I can't get to it. And Fred said,
17 Bryan, what are you talking about.
18 He said, there's too much smoke. I
19 can't get to it. I've wasted two
20 fire extinguishers, and I can't get
21 to it. And Fred said, well, what do
22 you need, Bryan. Just tell me what
23 you need. He said, I need more fire
24 extinguishers. And he said, I see
25 flames. And he said, do what, Bryan.

97

01 He said, I see flames. He said,
02 well, get to it. He said I can't, I
03 can't get to it. And that's when
04 Fred --- Fred told him he was headed
05 his way, he was coming his way.
06 Q. Fred had stayed --- Fred
07 Horton?
08 A. Yes.
09 Q. Fred Horton had stayed --- do
10 you believe Fred Horton was at the
11 same location, same phone, the first

12 time Bryan talked to him as he was
13 the second time he talked to him?
14 A. I'm not for sure. I'm not for
15 sure if he was or not. The first
16 time ---.
17 Q. Did you hear Bryan call on the
18 second --- go ahead. I'm sorry.
19 A. The first time he called, I
20 know he was at Three section.
21 Q. Fred Horton was at Three
22 section the first time?
23 A. Yes. I know that for sure.
24 But I'm not positive about the second
25 time. I don't know where Fred was.

98

01 Maybe he was up the line. Because
02 they were --- I would assume he was
03 gathering fire extinguishers from the
04 power centers. That's the only place
05 I know they would be at, I would
06 assume.
07 Q. Did you hear Bryan have to
08 call him --- Bryan Cabell have to
09 call Fred Horton more than one time
10 the second time he called him?
11 A. No. Not that I can recall,
12 no.
13 Q. So the first time he called

14 for him, Fred answered right away,
15 the second call
16 A. Yes.
17 Q. The first call, did he have
18 to ---?
19 A. Yeah, he hollered several
20 times, because he --- after he
21 realized he couldn't get ahold of
22 Fred, he hollered at me and he asked
23 me, he said, where's Fred at. And I
24 said, Bryan, I'm not for sure. And I
25 was going to tell him about that when

99

01 Fred picked the phone up.
02 Q. So he called for Fred before
03 --- he called for Fred after the
04 alarm first went off, the warning
05 went off?
06 A. Yes.
07 Q. And you acknowledged that you
08 heard him calling for Fred, then he
09 called you ---
10 A. Yes.
11 Q. --- and asked you where Fred
12 was, ---
13 A. Yes.
14 Q. --- and that's when Fred
15 picked the phone up?
16 A. Yes.

17 Q. Okay. Did you hear the belts
18 running when you were on the phone
19 listening to him? I don't know if
20 you could hear it or not. My
21 understanding is the phone is fairly
22 close to that longwall belt, and I
23 didn't know if you would be able to
24 hear if the belt was running or not.
25 A. Talking to Bryan?

100

01 Q. Yes.
02 A. I can't recall.
03 Q. Do you know if Joe Rose or Pat
04 Callaway was with Bryan? Did he make
05 any mention of that to Fred?
06 A. Not at that time, no.
07 Q. Not at the first call or the
08 second call?
09 A. No.
10 Q. Was there another call that
11 you heard?
12 A. I can't remember that either.
13 I can't remember if --- I can't
14 remember.
15 Q. You said not at that time that
16 you heard him say anything about Pat
17 Callaway or Joe Rose. At a later
18 time, did you hear him say anything

19 about Pat Callaway and Joe Rose?
20 A. Yes. Not on the phone. After
21 the fact, after ---.
22 Q. After they had come out of the
23 mine?
24 A. Yes.
25 Q. Did you hear any discussion

101

01 about water, water supply, water
02 hose, water valves, fire suppression,
03 ---
04 A. No.
05 Q. --- any of those?
06 A. No.
07 Q. There was no discussion or you
08 didn't hear any?
09 A. I didn't hear none, no.
10 Q. Do you know if you heard all
11 the discussions that were held on the
12 phone?
13 A. I probably didn't, because it
14 got intense and I kind of --- I don't
15 know. I kind of got nervous and it
16 really had its toll on us, so I
17 didn't --- I'm a church-going person.
18 I didn't want to eavesdrop. I mean,
19 maybe I should have. And it's been
20 --- that's been tearing at me ever
21 since it took place, but no.

22 Q. Did you stay in the
23 dispatcher's office?

24 A. Yes, at that time.

25 Q. Did you see any additional

102

01 sensors activate?

02 A. Yes.

03 Q. Prior to any of the other
04 conversations taking place?

05 A. Yes. Prior to?

06 Q. Yes.

07 A. No. The only two --- the 1.82
08 and the 1.81. When Bryan was --- the
09 first conversation, when Bryan called
10 --- the 1.81 alarmed, too.

11 Q. If we could just keep on going
12 down through these things, maybe you
13 could kind of help me with what some
14 of them mean.

15 A. Okay.

16 Q. If you need to take a break at
17 any time, just say so, please. Okay.
18 We're down to where --- 81 sensor
19 alarms. Then the next one says, at
20 1739:05

21 --- I'm sorry, I read the same one
22 twice. 1752:37, CO monitor 75. Do
23 you know what CO monitor 75 is?

24 Let's just slide this up.

25 A. It's on a ---.

103

01 Q. Next one.

02 A. Just give me a second.

03 Q. That's all right. Take your
04 time.

05 A. That's the Two section belt,
06 as far as I know.

07 Q. Do you recall --- that says
08 communications dead; is that correct?

09 A. Yes.

10 Q. And then the next entry says,
11 1752:44, and the same sensor, 75,
12 which is on 48-inch belt going
13 towards Two section.

14 A. Yes.

15 Q. And it says communications
16 gained. What does that mean?

17 A. The power came back to it as
18 far as I know, yes.

19 Q. So the first one indicates
20 that for some reason there's loss of
21 communication?

22 A. Right.

23 Q. The gained communications
24 means that it can communicate again;
25 is that correct?

104

01 A. Yes.

02 Q. And then we see that again.

03 And we see the same --- it went out,

04 went back in?

05 A. Yes.

06 Q. Okay. Now I see down here,

07 getting towards the bottom of this

08 page on 1/19/2006, 1800:02:22, it

09 says 1.6 belt boss stopped, remote

10 from master station. Could you

11 explain to us what that means?

12 A. I turned the --- that's

13 another means of communicating with

14 the section, turning their belts off.

15 Q. Yes.

16 A. I couldn't raise Two section

17 on the phone at that time, so I

18 turned their belts off.

19 Q. So the activation of this stop

20 remote from the master station,

21 that's you?

22 A. Yes.

23 Q. And that's you by clicking on

24 the arrowhead for that belt?

25 A. Yes.

105

01 Q. And you clicked on the Number

02 Six six-foot belt in the north mains;

03 is that correct?

04 A. Yes.

05 Q. Which is what the 48-inch

06 belts dump onto that go all the way

07 into Two section; yes?

08 A. I guess that's the one, yes.

09 And I don't know how to --- I don't

10 know how to correspond these with

11 that is what I'm saying.

12 Q. Let's just go through that

13 slowly. On Exhibit F it's Number Six

14 six-foot belt.

15 A. Yes. I know --- these are the

16 six foot and these are the two

17 section belts.

18 Q. And you stopped --- this belt

19 here is what I'm understanding you're

20 saying.

21 A. This six-foot, no.

22 Q. Okay. Where did you stop it?

23 A. I stopped the belt in the Two

24 section.

25 Q. You stopped the Two section

106

01 belt?

02 A. Yes.

03 Q. Okay. Do you know if Two

04 section belts are monitored by the

05 computer systems that will result in

06 a printout that says --- like this
07 does. This says something about
08 the ---.
09 A. There's no printer hooked to
10 that.
11 Q. There's no printer?
12 A. No.
13 Q. Does it store information; do
14 you know?
15 A. I'm not positive, no.
16 Q. It's a different computer
17 system?
18 A. No. It's this one here.
19 Q. It's that one there?
20 A. I would say that's the --- I
21 thought you --- referring to the ---.
22 Q. That's okay.
23 A. We got another machine that
24 runs belts, but it don't --- it does
25 not operate the section belts. It

107

01 only operates the six-foot belt.
02 Q. Main line belts?
03 A. Yes.
04 Q. Okay. So the actions that you
05 took then ---
06 A. Was on this screen.
07 Q. --- was on the actual last

08 length of belt that goes into the
09 Number Two unit?
10 A. Yes.
11 Q. And that was to notify the
12 section?
13 A. Yes.
14 Q. Did they respond?
15 A. Yes.
16 Q. And did they call you?
17 A. Yes.
18 Q. And who was that person?
19 A. Mike Plumley.
20 Q. And what conversation did you
21 have with Mr. Plumley?
22 A. He called and asked what was
23 wrong with the belts. And I told him
24 I turned them off, that smoke was
25 headed in his direction, he needed to

108

01 --- I was told to tell this by a
02 supervisor.
03 Q. And who told you that?
04 A. Rod Morrison.
05 Q. Rob or Rod?
06 A. Rod. R-O-D, Rod.
07 Q. Morrison. Was he on the
08 surface or was he underground?
09 A. He was on the surface.
10 Q. Did someone tell him to tell

11 you that?

12 A. I'm not for sure.

13 Q. And I might have cut you off

14 there.

15 A. I know that they were

16 communicating with Fred Horton ---

17 Q. Rod was?

18 A. --- underground, yes. But I

19 didn't listen to none of the

20 conversations. But I know --- I

21 found out afterwards that they were.

22 Q. Okay. And he told you to shut

23 their belt off?

24 A. Yes, to get ahold of them to

25 let them know that smoke was coming

109

01 to their section and to evacuate.

02 Q. Okay. And you shutting that

03 belt off for that section, Number Two

04 unit, doesn't show up on this

05 printout here; is that correct?

06 A. I don't know how to read that.

07 I don't know if it does or not. If

08 that ---.

09 Q. Okay.

10 A. I'm assuming that's it right

11 there, but I'm not --- like I said,

12 I'm not sure. I don't know how to

13 read that paper.
14 Q. You're not sure what master
15 station means?
16 A. I would guess it's this. I
17 would --- but I'm not sure.
18 Q. Okay.
19 A. I'm not sure.
20 Q. But you're sure, though, that
21 the only belt that you shut off ---
22 A. Was Two section.
23 Q. --- from your station was Two
24 section?
25 A. Yes. Yes.

110

01 Q. If Two section's belt was
02 already shut off, would you know
03 that?
04 A. Yes.
05 Q. And how would you know that?
06 A. The screen would say ---
07 that's why he called me, because I
08 would know why it was cut off.
09 There's a window that comes up and it
10 will say that it's a gob or a tilt
11 switch or a land mine or something to
12 that effect that happened, and I
13 would let him know that it was me
14 that stopped the belt.
15 Q. Okay. So up until the time

16 you stopped that belt, the six-foot
17 belt in the north mains, the last
18 section of Number Six belt had to be
19 operating, is that correct, because
20 his belt has to dump on another belt
21 that dumps on another belt that dumps
22 on that belt; right?

23 A. I would assume, yes.

24 Q. I guess I don't want to put
25 words in your mouth, and I did.

111

01 Could his section belt be operating
02 when any of these mainline belts in
03 the main north were shut down? Did
04 his belt continue to operate, as far
05 as you know?

06 A. If they turned them on
07 remotely.

08 Q. Only if they turned them on
09 remotely?

10 A. Yes.

11 Q. And they wouldn't do something
12 like that if they were loading coal
13 on a section belt at that time?

14 A. No. I would --- I don't know
15 the whole process of running coal,
16 but I would assume not.

17 Q. Did you happen to look at your

18 watch or computer screen time at any
19 time during this?
20 A. No. The only time that I did
21 was when the alarm alarmed, it was
22 --- I found this out afterwards, that
23 the computer that we used to send out
24 alpha pages to the --- we send out
25 alpha pages, what --- the longwall

112

01 reports, the miner section reports,

02 ---

03 Q. Yes.

04 A. --- to company members.

05 Q. Is that this computer system
06 here?

07 A. No.

08 Q. That's the other one on the
09 other side?

10 A. It's on the desk.

11 Q. The desk?

12 A. It's on the dispatcher's desk.

13 And the CO monitor and the belt
14 computer is off to my left.

15 Q. Just two computer systems in
16 your office?

17 A. There's actually three.

18 Q. And this is the third?

19 A. Yes.

20 Q. One monitors the CO system,

21 another one the belts, ---
22 A. And then the ---.
23 Q. --- and this here was a third
24 one?
25 A. We use it to send alpha pages

113

01 out to the ---.
02 Q. Okay.
03 A. And I noticed the time on it.
04 Q. Yes.
05 A. And I was --- after the 19th,
06 I was told that there was a 20
07 minutes difference in that computer
08 and those computers. I don't know
09 for sure because I don't know the
10 time on those computers.
11 Q. Between those two computers,
12 there was a 20-minute difference?
13 A. Yeah. And the time that I saw
14 on my computer was 5:30.
15 Q. And 5:30 was the time on your
16 computer that your alpha messages
17 were being sent out?
18 A. Yes.
19 Q. Okay. And that was the time
20 when you shut the belt off?
21 A. When I heard the alarm, the
22 first alarm.

23 Q. When you heard the first
24 alarm, ---
25 A. Yes.

114

01 Q. --- the first warning for
02 sensor 82?

03 A. Yes.

04 Q. The 20 minutes difference, did
05 it say faster, slower; do you know?

06 A. No. That I don't know. I
07 don't know if mine was faster. I
08 didn't get the ---.

09 Q. Okay.

10 A. I was told that there was a 20
11 minutes difference in them. I don't
12 know which way it went.

13 Q. Did anybody update the times
14 on those computers since the day of
15 the accident?

16 A. I'm not for sure.

17 Q. Do you know if there's still a
18 20-minute difference in time?

19 A. I'm not for sure.

20 Q. Let's go down through this a
21 little bit farther, okay. You have
22 three sequences here. Well, there's
23 the remote stop from the master
24 station on belt 1.6, and then after
25 that there's 1.8 that says sequence

01 stop. And then there's a 1.7 after
02 that that says sequence stop. And
03 then following that, there's 82 CO
04 monitor, communications dead?

05 A. Yes.

06 Q. Eighty-two (82) is that one at
07 the belt head for the longwall belt;
08 correct?

09 A. Yes.

10 Q. And then there's another one
11 that says 83, CO communications dead;
12 is that correct?

13 A. Yes.

14 Q. And those are 1822:37 and
15 1822:38, both on January 19th, 2006.

16 And on Exhibit G, where is sensor 83

17 --- I'm sorry, sensor 83?

18 A. Eighty-three (83), it's on the
19 mother drive belt, the longwall belt

20 ---.

21 Q. The next sensor in by sensor
22 82?

23 A. Yes.

24 Q. Do you know if the cables for
25 both of those sensors run through the

01 same piece of entry?

02 A. I don't know.

03 Q. Don't know. Following that,

04 at 1833:50, 1833:50 on January 19th,

05 2006, there's a --- the next entry is

06 for a CO sensor 71, and it goes into

07 warning. And 71 is --- on Exhibit F

08 it appears that it's where? Is this

09 on the 48-inch belt?

10 A. Yes.

11 Q. In the northeast mains?

12 A. Yes. It's inby the Number Six

13 six-foot head.

14 Q. Do you recall that warning

15 taking place?

16 A. Yes.

17 Q. Was that before or after you

18 shut the belt off for Two section?

19 A. It was after.

20 Q. So you shut the belt off for

21 Two section between the warnings and

22 alarms that are going off for sensors

23 81 and 82 and the first warning that

24 you receive from sensor 71; is that

25 correct?

117

01 A. Yes.

02 Q. I'm going to flip over to the

03 next page here, and this is your

04 Exhibit B. All these dates and times

05 that we've been talking about are for
06 this Exhibit B. Seventy-one (71),
07 you can see it goes into an alarm
08 following the warning. The
09 conversation with Mr. Plumley, what
10 all did you --- when he first called
11 you back when the belts went
12 down ---?

13 A. He wanted --- yeah, he wanted
14 to know what was wrong with these
15 belts, and I proceeded to tell him
16 that there was smoke headed to his
17 section and he needed to evacuate.
18 And he said --- I guess it surprised
19 him for he said, do what. And I said
20 --- and I started to tell him more,
21 and Fred Horton told him, Mike,
22 listen to the dispatcher and evacuate
23 off the section.

24 Q. Do you know about how long
25 before that 71 sensor was activated

118

01 into a warning that you called Mr.
02 --- or notified Mr. Plumley by --- or
03 I should say when he called you?

04 A. I don't know. I don't know,
05 no.

06 Q. A very short time, minutes?

07 A. Minutes.
08 Q. Ten minutes?
09 A. I'm not for sure.
10 Q. Okay. Is there any other
11 involvement that you had notifying
12 people or anything after your
13 conversation with Mr. Plumley?
14 A. I tried to contact the
15 longwall section, and they was --- I
16 couldn't get ahold of them. But I
17 don't know how they knew or who told
18 them, but they had already evacuated.
19 I learned this after everything took
20 place. I don't know.
21 Q. And you tried to contact the
22 longwall?
23 A. Yeah. I sounded both alarms
24 at the same time on the sections, and
25 I never got a response from either

119

01 one until I turned the belt off on
02 Two section. And of course --- by
03 that time, the belts were already off
04 on the longwall.
05 Q. How do you know that?
06 A. Because --- well, I shouldn't
07 say I know it for sure, but I assume
08 that they were because the
09 communications on those two CO

10 monitors went dead. I'm playing this
11 out in my mind as this is happening.
12 I'm thinking that there --- because
13 they've already said there's a fire.
14 So I assumed that the fire destroyed
15 the CO monitors and it surely stopped
16 the belt. No one told me or I seen
17 it on a monitor or anything that the
18 belts had turned off, no.

19 Q. Were the longwall belts on a
20 screen that monitors their operation?
21 Are they shown on a screen?

22 A. On Exhibit G, ---

23 Q. Yes.

24 A. --- they show them, but I have
25 no communication with them. I can't

120

01 turn them off or on.

02 Q. What about on that other
03 screen that monitors just the belts
04 and doesn't have the CO monitors?

05 A. No.

06 Q. You can't turn them off?

07 A. I can't turn them off, no.

08 Q. Okay. Do you know if there's
09 a record of whether or not the belts
10 are on or off?

11 A. That I don't know.

12 Q. What about on that alpha
13 machine? You said there's alpha
14 information that you send out, alpha
15 pages?
16 A. Yes.
17 Q. Does that indicate belts
18 on/belts off?
19 A. If I put it in the report. I
20 have to type a report and send it.
21 Q. You have to type it in?
22 A. Yes.
23 Q. Okay. Do you know where Mr.
24 Horton was when he told Mr. Plumley
25 to evacuate?

121

01 A. No, I don't know.
02 Q. Was it during any of his
03 conversations with Mr. ---
04 A. Cabell.
05 Q. --- Cabell, yes?
06 A. I'm not for sure. No, I don't
07 know.
08 Q. You mentioned Mr. Rod
09 Morrison. Do you know his title?
10 A. Assistant superintendent on
11 the longwall.
12 Q. Do you know what shift he
13 works?
14 A. First shift.

15 Q. First shift is dayshift?

16 A. Yes, dayshift.

17 Q. So he was just there for ---?

18 A. They were getting ready to
19 leave, in the process of leaving,
20 yes.

21 Q. And do you know who he
22 supervises?

23 A. I don't know who all was under
24 him, no.

25 Q. You mentioned, in your

122

01 experience, that 107 is the highest
02 CO reading that will show up on a
03 screen from a sensor?

04 A. Yes.

05 Q. Do you know how many times
06 you've ever seen this? Have you ever
07 seen it before that?

08 A. Yes.

09 Q. Do you recall when?

10 A. We had talked earlier about
11 the fire incident. It happened then.
12 And it's happened on other monitors,
13 but they turned out to be faulty, and
14 they had to replace that monitor.

15 Q. Is this a common occurrence?

16 Does it happen every week?

17 A. No. No.

18 Q. Does it happen once a month?

19 A. I'd say probably more than

20 that, but not once a week.

21 Q. How about the CO dead or ---

22 yeah, communications dead, does that

23 happen very often?

24 A. No.

25 Q. Where were you when the alarm

123

01 was activated on the 19th of January?

02 A. I was sitting at the

03 dispatcher's desk.

04 Q. You said that you had trouble

05 getting ahold of Number Two section,

06 so you turned the belts off to

07 finally get ahold of them. Did you

08 also say that --- and maybe I missed

09 it if you did. Did you page them

10 first with a page number to their

11 phone?

12 A. Yes.

13 Q. And nobody responded?

14 A. Right.

15 Q. How long after you shut their

16 belt off do you know --- can you

17 guess? Minutes?

18 A. Minutes.

19 Q. Less than a minute?

20 A. Minutes. I'd say more than
21 five. More than five minutes, I'd
22 say, yes.
23 Q. Did anybody call you back from
24 Number Two section to let you know
25 that they were heading out right now?

124

01 A. No.
02 Q. Did anybody tell you that you
03 could kill the power to a section to
04 notify them?
05 A. To kill power?
06 Q. Yes.
07 A. No.
08 Q. Can you kill power from your
09 workstation?
10 A. No.
11 Q. If you had to kill power, how
12 would you do that?
13 A. I'd have no idea.
14 Q. Do you know if the power was
15 ever turned off underground during
16 the evening of the 19th of January,
17 after the accident began? Do you
18 know if the power was ever turned
19 off? Would you know that on your
20 system?
21 A. Yeah, you would know it. The

22 COs would --- well, I shouldn't say
23 that. I assume that the COs would
24 turn off.

25 Q. But you're not sure?

125

01 A. No, I'm not sure.

02 Q. Okay. Do you wear a watch?

03 A. Yes.

04 Q. I see you have one on today.

05 Do you wear one at work every day?

06 A. Yes.

07 Q. Do you know how the time on

08 your computers, any one of those

09 three, compares with your watch?

10 A. I have this one set with the

11 alpha page computer.

12 Q. So that watch is the same as

13 the alpha page computer?

14 A. Yes.

15 Q. When you get home and you go

16 to watch the news at night, does it

17 come on about the same time that your

18 watch says it should?

19 A. I can't answer that. I don't

20 know. I don't know.

21 Q. What time does your watch say

22 now?

23 A. It says five 'til 3:00.

24 Q. We're close to the same time.

25 A. Okay.

126

01 Q. Do you ever adjust your watch?

02 Do you have a quartz battery?

03 A. I adjusted it with the alpha

04 page computer so I'd know when to

05 send the two-hour reports out.

06 Q. Every day? Do you adjust it

07 every day?

08 A. No. No. No, it's been set

09 with it since I started dispatching.

10 Q. Does it pretty much stay the

11 same?

12 A. Yeah.

13 Q. Ain't drifted a bit?

14 A. No.

15 Q. Okay. Do you happen to

16 remember what time you shut off that

17 Number Two section belt?

18 A. No, I can't recall the time.

19 Q. Did you make an entry in a

20 book?

21 A. No.

22 Q. You talked about one record

23 book you have. Is your record book

24 here?

25 A. Yes.

127

01 Q. And do you keep track of where
02 people move underground, where they
03 go from one place to another? Like
04 all the section people probably
05 pretty much stay on the section.

06 A. Once they --- if they call me,
07 I can track them. If they don't call
08 me, no, I can't track them.

09 Q. Do you know if --- have you
10 been instructed to track them?

11 A. Yes, if they place --- yes,
12 yes. I'm to know their destination
13 and their arrival time if they call
14 me.

15 Q. Do you write that down?

16 A. Yes.

17 Q. Do you retain those notes?

18 A. Yes.

19 Q. Do you have those notes from
20 the 19th of January?

21 A. Do I keep ---?

22 Q. Yes.

23 A. No, no. They're at the
24 dispatcher's office, I'm sure.

25 Q. They just compile them?

128

01 A. Yes.

02 Q. So if we went back there
03 today, we could probably find your

04 notes from wherever past?

05 A. You should be able to.

06 Q. Were they there yesterday?

07 A. I didn't see them.

08 Q. Didn't see any notes there

09 yesterday?

10 A. Prior to this incident,

11 they're there, but the other ones are

12 not. They were gone with the CO

13 monitor reports.

14 Q. Who took them?

15 A. I have no clue.

16 Q. What date did they go?

17 A. I don't --- I'm not for sure.

18 I don't know.

19 Q. After the 19th of January?

20 A. I would assume, yes.

21 Q. Including the notes that you

22 made from your shift on the 19th?

23 A. I really --- those were on the

24 clipboard that I was using. I didn't

25 put them where they was supposed to

129

01 go. I left them on the desk when I

02 left the dispatcher's ---.

03 Q. When you left the next night?

04 A. Yes.

05 Q. Do you know what's happened to

06 those notes that you had ---?
07 A. I have no clue.
08 Q. Did you pass them to the
09 dispatcher for the next shift?
10 A. No.
11 Q. Who did you give them to?
12 A. I left them on the desk when
13 --- I don't know --- I guess everyone
14 knows Vicky. I don't know Vicky's
15 last name. She's an MSHA --- she's
16 with MSHA. When she came onto the
17 property with Frank Foster, ---
18 Q. Yes.
19 A. --- I was in the dispatcher's
20 office. I was still receiving phone
21 calls.
22 Q. Yes.
23 A. They were --- people wanted to
24 know what was happening, and I was
25 informed not to say nothing. So

130

01 that's what I was doing. I was
02 turning the calls up to Gary Goff
03 that was on the --- that was in the
04 mine office.
05 Q. Calls coming in from outside
06 the mine property?
07 A. Yes.
08 Q. People underground calling or

09 people ---?

10 A. No, no, no. People from the
11 outside. And that's what I was doing
12 at that time. And it was getting
13 real stressful to me because they
14 were asking questions and they wanted
15 answers, and I couldn't give any. So
16 I gave up my position. The first
17 person that told me not to say
18 anything was Gary Goff. When Rod
19 Morrison --- Rod Morrison came down
20 and when they proceeded underground,
21 he told me to contact Pepe Lester,
22 Gary Goff and Eddie Lester, and I did
23 this. The first person to show up on
24 the property was Gary --- I mean, was
25 Pepe Lester. He went underground.

131

01 Q. Do you know what time that
02 was?

03 A. No. I wasn't keeping track of
04 the time. And then ---.

05 Q. Was it after people had come
06 out?

07 A. No one had come out at that
08 time. And then the mechanic that was
09 downstairs, Tim Dingus (phonetic),
10 came into the office. He was the

11 diesel mechanic, electrician. He
12 came into my dispatcher's office
13 because they were real close. He
14 came in and I asked him if he could
15 man the phones while I used the
16 restroom. And the restrooms are
17 upstairs from the dispatcher's
18 office. So he did this. And when I -
19 -- as I was going up, that's when I
20 met --- that's when I met Pepe coming
21 to the mines. When I used the
22 restroom, I told Pepe, I said, Pep --
23 - he asked me what was going on, and
24 I told him what I could. I told him
25 that --- what Fred had told me, what

132

01 was happening. And I used the
02 restroom, I left, and I beat Pepe
03 back down to the box cut. When I got
04 to the box cut, Pepe had changed. He
05 changed out of his street clothes
06 into his --- and put his belt on and
07 so forth. When he got down, he told
08 me he was going in. He went in. And
09 the phone continued to get real busy.
10 Q. The outside phone?
11 A. Yes, the outside phone. And
12 at this --- Gary calls me on the
13 phone and tells me to direct all

14 calls to him. So I directed all
15 calls to him. When he --- like I
16 said, people started asking me
17 questions, and I couldn't give --- I
18 couldn't give answers to them, so I
19 --- I don't know --- I don't know
20 when everybody came upstairs, but
21 Randy Boggs was upstairs. Randy
22 Boggs is our safety tech. Gary was
23 the first one to tell me to direct
24 all calls to him. I took calls up to
25 the point when Randy Boggs called and

133

01 told me, he said, Mike, don't say
02 nothing to no one. And I took it the
03 wrong way. I took it as an offense.
04 And I said, Randy, I haven't said
05 anything to anyone. He said, no, I
06 don't mean that. I mean, don't say
07 nothing. I said, okay. I said, I
08 won't because I'm not answering the
09 phone anymore. And he proceeded to
10 ask someone else to answer the phone.
11 And Chad Neal (phonetic) came down.
12 He's an electrician.
13 Q. Came down to your office?
14 A. Yes. He came down and took
15 over the phones. And that's when I

16 went upstairs. And I left everything
17 there, the papers. All the papers
18 that were there I left downstairs.
19 Q. Did you ever --- I know you
20 said that the alarms went off on 81
21 and 82 --- 82 and 81 about the same
22 time that you were talking with Mr.
23 Cabell and Mr. Horton got in on the
24 conversation as well. Did you notify
25 anyone that alarms had gone off, that

134

01 the CO alarms had gone off at that
02 time?

03 A. No, because I assumed that
04 they knew.

05 Q. How about later on, when the
06 CO alarms went off on 71, up on the
07 48-inch belt and Two section?

08 A. I told --- I believe it was
09 Mike Plumley that I told that his
10 monitors were going off, they were
11 detecting the CO.

12 Q. Mike Plumley?

13 A. Yes. I told him the smoke was
14 coming his way. I don't know ---.

15 Q. That's okay. I know it's
16 difficult.

17 A. Further down that belt, where
18 the initial monitor went off was at

19 83 or 82 --- 82.

20 Q. Yes.

21 A. Okay. I was informed by Fred
22 Horton --- no, by Rod Morrison, to
23 evacuate Two section. And that's
24 when I called them. But they had
25 left me and went underground. It was

135

01 Rod Morrison, Bob Massey, Terry Shadd
02 and Ed Ellis. I believe that's the
03 only four there was. And they left
04 me and went underground to --- headed
05 to that section, I assume, headed to
06 the area.

07 Q. And this is before you shut
08 the belts off to Number Two section?

09 A. Yes. When Rod told me to
10 contact the sections and evacuate
11 them, first I done the code. I
12 punched in their number for that
13 section to turn on the phones and the
14 lights and the alarm. And when no
15 one was calling me back, I went to
16 turn off the belts to Two section.
17 And when I turned them off, Mike
18 Plumley called me within five
19 minutes. In five minutes I'd say he
20 called me and wanted to know why his

21 belts were off. Because that happens
22 --- if it gobbled out, the belts would
23 have went off. So he called --- he
24 wanted to know what was happening,
25 and I told him there was smoke headed

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01 to his section. And there was
02 monitors on that screen going off.

03 Q. Other monitors besides 81 and
04 82?

05 A. Yes.

06 Q. That's the ones that were on
07 71 and the ones going down the 48-
08 inch belt?

09 A. Yes. I listed them on that
10 entry.

11 Q. Yes. In this Exhibit A, the
12 CO logbook?

13 A. Listed on there the ones ---.

14 Q. And those were already going
15 off when ---?

16 A. At least one of them.

17 Q. At least one of them had gone
18 off?

19 A. At least one of them was going
20 off, yes.

21 Q. So when we see --- and the
22 first one that would have went off is
23 shown on this --- probably the 71

24 sensor was the first one that went
25 off at 1833:50 on the 19th. That was

137

01 the first sensor that you see. Let's
02 go back to the previous page. I'll
03 find the paper I had it marked on.
04 Okay. All right. This is the same
05 page we were on before in Exhibit B.

06 A. The 71.

07 Q. Seventy-one (71) was the first
08 one that went off?

09 A. Yes.

10 Q. And that was at 1833:50?

11 A. Yes.

12 Q. And that was --- at least that
13 one sensor had gone off prior to ---

14 A. Calling them, yes.

15 Q. --- you calling them?

16 A. Yes.

17 Q. So Mr. Morrison didn't tell
18 you to call them until after 1833:50,
19 according to the time stamp that's on
20 this; is that correct?

21 A. Yes. According to that, yes.

22 Q. Now, you're helping to put
23 together some time pieces here. And
24 I know it's difficult, and I know
25 it's hard switching back and forth

01 between everything, but it's very
02 helpful. You talked about answering
03 the telephone in the dispatcher's
04 office. Does the mine phone normally
05 ring to your office, I mean, the
06 outside line coming in?

07 A. Yes.

08 Q. It normally rings to your
09 office?

10 A. Yes.

11 Q. Do you get a lot of phone
12 calls during the day?

13 A. Yes.

14 Q. Does it ever affect your
15 ability to monitor what's going on?

16 A. I'd say it could, yes.

17 Q. Has it?

18 A. No, not up to this point. But
19 I'd say it could.

20 Q. Do you ever have to go fetch
21 people?

22 A. Yes.

23 Q. People that are outside of the
24 warehouse, the dispatcher's office?

25 A. In the box cut.

01 Q. Different people in the box
02 cut, you might have to go find

03 them; ---
04 A. Yes.
05 Q. --- is that correct?
06 A. Yes.
07 Q. Do you ever have to go up the
08 elevator and into the ---?
09 A. No.
10 Q. No?
11 A. No.
12 Q. Is there a restroom in the box
13 cut?
14 A. No.
15 Q. If you have to go to the
16 restroom, is somebody able to relieve
17 you, relieve you as dispatcher?
18 A. As dispatcher, on the first
19 and second shift, yes. It might be a
20 little hard on the third shift.
21 Q. How would you get somebody to
22 relieve you while you ---?
23 A. I'd have to physically go get
24 them out of the box cut.
25 Q. And they would be somebody

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01 that would just be working in the box
02 cut?
03 A. The electrician, ---
04 Q. One of the electricians?

05 A. --- if there was anyone there.
06 Q. And if there wasn't anyone
07 there?
08 A. The only thing I can do is
09 call someone upstairs to listen to
10 the phones. The CO monitors wouldn't
11 be ---.
12 Q. And on midnight shift you say
13 there's no one available?
14 A. It would be harder to find
15 someone available. I'm not saying
16 there isn't anyone available, but it
17 would be harder to get someone.
18 Q. Did you call anyone on the
19 cell phone that night of the
20 accident?
21 A. No.
22 Q. Did anybody, when you were
23 speaking with Mr. Plumley --- is Mr.
24 Plumley the only one that you spoke
25 with from Two section?

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01 A. Yes.
02 Q. On the night of the accident?
03 A. Yes.
04 Q. Did he say anything about
05 smelling any smoke or ---?
06 A. No. After I told --- when
07 Fred told him to listen to me, I put

08 the phone back on its cradle. I
09 didn't listen no more.
10 Q. But he didn't indicate to you
11 that he smelled smoke; is that
12 correct?
13 A. That's correct.
14 Q. Did you hear Mr. Rose --- do
15 you know who Joe Rose is?
16 A. He was with Pat Callaway
17 maybe.
18 Q. Yes, sir.
19 A. Yes.
20 Q. Did you hear him on the
21 telephone?
22 A. No.
23 Q. Did he speak with you?
24 A. No.
25 Q. Did Pat Callaway speak with

142

01 you?
02 A. Not that I can recall.
03 Q. You spoke with Mr. Horton, Mr.
04 Plumley, Mr. Cabell?
05 A. On the phone?
06 Q. On the phone.
07 A. On the phone I spoke with
08 Bryan Cabell --- this is to my
09 remembrance, okay. Bryan Cabell,

10 Fred Horton and Mike Plumley, to my
11 remembrance. If I forgot, I'm sorry.

12 Q. I can understand. Do you know
13 Brandon Conley?

14 A. Brandon Conley, yes.

15 Q. Are you aware of a radio
16 interview that he conducted with West
17 Virginia Public Radio?

18 A. No.

19 Q. You say you always work second
20 shift, is that correct, as
21 dispatcher, ---

22 A. No.

23 Q. --- except for the one day
24 that you work a 12-hour shift?

25 A. No. I work --- when I first

143

01 started, I worked third shift.

02 Q. Third shift dispatcher?

03 A. Yes.

04 Q. Did you ever have trouble
05 getting somebody to take your place
06 when you had to go use the restroom
07 on midnight shift then?

08 A. I know this might be hard to
09 believe, but I've never had to go.

10 Q. I can understand. It wasn't
11 meant to put you on the spot.

12 A. It's good to laugh.

13 Q. It relieves tension.

14 A. Yes.

15 Q. If you need to take a break at
16 any time, just say something.

17 A. Okay.

18 Q. What time did Mr. Adkins go
19 underground? Do you know Chris
20 Adkins? Do you know him?

21 A. Yes.

22 Q. Do you know Frank Foster?

23 A. Yes.

24 Q. Do you remember what time they
25 went underground?

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01 A. I don't know what time it was
02 as far --- no.

03 Q. Was it before people were
04 coming out of the mine?

05 A. I can't recall. I can't
06 remember if --- I was there when the
07 crew came out, but I can't remember
08 if they went in before or after. I
09 can't remember.

10 Q. When people went back in, did
11 they call out and tell you where they
12 were or where they were going, kind
13 of give you an idea what's going on?

14 A. No.

15 Q. Would you have been able to
16 get ahold of them if you needed to?

17 A. I would hope so.

18 Q. Were there other people
19 working in the mine besides the
20 people on Two section and the
21 longwall?

22 A. Yes.

23 Q. And beside Mr. Callaway and
24 Mr. Rose?

25 A. Yes.

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01 Q. How were they contacted?

02 A. I did talk to Brandon Conley.

03 Q. Yes.

04 A. He was on Rum Creek.

05 Q. Yes.

06 A. And he wanted to know what was
07 happening, and I told him to come to
08 the Three section --- I mean to the
09 Three way to wait for a ride because
10 he was walking. He was the beltman
11 on Rum Creek. This is good, because
12 you reminded me. I'm glad. But he
13 waited for a ride there at Three way.
14 It was Brandon Conley that I spoke
15 to.

16 Q. Was there anybody else that
17 you spoke with?

18 A. No. I'm pretty sure that ---
19 I was trying my best to remember who
20 it was. Thank you. It was Brandon
21 Conley.

22 Q. Thank you. Do you recall what
23 time it was that you left the
24 dispatcher's office for the last
25 time?

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01 A. No, I don't know. I don't
02 remember what time it was.

03 Q. Was it before midnight?

04 A. I'm really not for sure.

05 Q. Thank you. I'm going to kind
06 of shift directions a little bit.

07 A. Okay.

08 Q. We got Exhibit B pretty much
09 concerned with the day of the
10 accident in January. Are there any
11 other entries in Exhibit A that you
12 have made? If you just turn to the
13 last page on 002846, Aracoma 002846.

14 A. Yeah, I made this entry.

15 Q. I'm just going to indicate
16 with an arrow which one that is. Is
17 that all right?

18 A. Yeah.

19 Q. And can you tell me the date?

20 A. 1/05/06, 1.779, yes.
21 Q. So there's a blue arrow on
22 there that indicates that entry?
23 A. That's the correct entry, yes.
24 Q. Okay. And what does 24 mean?
25 A. That was the parts per million

147

01 that was reading on there.
02 Q. So 24 fire means --- 24 parts
03 per million CO ---
04 A. Yes.
05 Q. --- at sensor 79?
06 A. Yes.
07 Q. And the fire was the fire
08 indicator on your screen; is that
09 correct?
10 A. Yes. Yes. That don't mean
11 there was a fire. It means that the
12 sensor was saying fire.
13 Q. Yes. And then after that,
14 there says no reply?
15 A. Yeah, that's what --- when I
16 contacted Paul Scott, ---
17 Q. Yes. And his name is, just
18 for the record, so that the
19 transcript ---.
20 A. The one that responded to the
21 --- yes.
22 Q. Paul Scott is the one who

23 responded to your call?

24 A. Yes. It was --- he reset it,
25 but there was nothing happening in

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01 the area. It was --- when he reset
02 it, there was no reply, so it was ---
03 we assumed it was a faulty monitor.

04 Q. He called you back?

05 A. Yes.

06 Q. And you saw on your screen
07 that it was reset?

08 A. It wouldn't --- it said no
09 reply. It changed from --- it
10 changed from the fire to no reply.
11 What it does is it ---.

12 Q. Is that the CO off box or the
13 CO dead?

14 A. Yes, CO dead, and it says no
15 reply.

16 Q. Do you know if anybody was
17 stationed there to monitor it ---

18 A. I don't know for sure.

19 Q. --- since that sensor was
20 faulty?

21 A. No.

22 Q. Are there any others on this
23 page?

24 A. 1:30:05?

25 Q. 12:30:05?

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01 A. Yeah, 12:30:05. I'm sorry.

02 Q. That's all right. Thank you.

03 I'll put a blue arrow to indicate

04 that one. So what, CO sensor 98?

05 A. I take that back. That's not

06 mine.

07 Q. That's not yours?

08 A. It looked like my writing at

09 first, but it's not mine.

10 Q. I'm going to scratch out that

11 arrow ---

12 A. Okay.

13 Q. --- so we've only got one

14 arrow identified here on this page.

15 A. That's not mine.

16 Q. Is that everything for that

17 page?

18 A. Yes.

19 Q. The previous page, Aracoma

20 002845. How about any of these?

21 A. Yes, the bottom.

22 Q. The bottom one?

23 A. Yes.

24 Q. 12:29?

25 A. Yes.

150

01 Q. I'm going to put an arrow

02 there.
03 A. Okay.
04 Q. And it says 12:29:05. It
05 looks like sensors 9450, part of it's
06 missing, but I believe it's a 51.
07 A. Uh-huh (yes).
08 Q. Fifty-three (53), 80 and it
09 looks like 81; is that correct?
10 A. Uh-huh (yes).
11 Q. And what does it say?
12 A. It says fire at 94 sent smoke
13 up the line. Fire put out.
14 Q. And the persons' names after
15 that are?
16 A. Carl White and Jimmy Robinson.
17 Q. And are those two people ---
18 were they notified --- do you recall
19 this incident?
20 A. Yes.
21 Q. Were you made aware of the ---
22 let's pull up here Exhibit C. Let's
23 see. Is there a time --- there's not
24 a time indicated on that, is there?
25 A. No.

151

01 Q. I'm going to put an arrow here
02 on Exhibit C. I think that's C,
03 Exhibit C Brown, on 12/29,

04 1800:19:52, it says 1.94 CO monitor
05 warning five.
06 A. Okay.
07 Q. I'm going to start there. I
08 put a little blue arrow there in
09 front of that. And maybe we can kind
10 of go through these things together,
11 okay. It looks like that entry has a
12 warning, five parts per million for
13 sensor 94. And then the next entry
14 is an alarm for sensor 94. And the
15 next one is a warning for 50 and then
16 an alarm for 50. And that
17 corresponds with your 94 and 50 in
18 the CO logbook, ---
19 A. Yes.
20 Q. --- Exhibit A. And then
21 there's a belt boss stop local. What
22 does that mean?
23 A. That means that someone
24 stopped the belt at the head or ---.
25 Q. And that is 1.3? Is that the

152

01 Number Three belt?
02 A. I'm not ---.
03 Q. And we can refer to this other
04 exhibit over here.
05 A. I'm not for sure. I
06 Would ---.

07 Q. Let's look and see where those
08 sensors are, 94 and ---.
09 A. It was the Number Six six-foot
10 head. It was Number Six.
11 Q. Let's find sensor 94, here.
12 It looks like the Number Five ---
13 A. Number Five.
14 Q. --- belt, number five flight
15 of the six-foot belt on the north
16 mains; is that correct?
17 A. Yeah.
18 Q. So this three, 1.3
19 doesn't ---?
20 A. That doesn't mean nothing to
21 me. I don't know what that
22 represents.
23 Q. All right. And then the next
24 one, 1.4 belt boss stop sequence,
25 what does that mean?

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01 A. That means that if they ---
02 where they shut one belt off, it shut
03 another belt off.
04 Q. Just in the normal
05 sequencing ---
06 A. Right.
07 Q. --- of the belt operation?
08 A. Right.

09 Q. The next entry is 1.51, CO
10 monitor, warning, and on this map
11 here 1.51 is the one next in by 1.50;
12 correct?
13 A. Uh-huh (yes).
14 Q. And that's on Exhibit F. And
15 then the next one, 1.53, it don't
16 show up on that screen, but if we go
17 to --- yep, that's the screen there,
18 Exhibit G, 1.53 is the last CO sensor
19 at the end of the Number Six flight
20 of six-foot belt in the north mains;
21 is that correct?
22 A. Yes.
23 Q. Okay. And then let's go to
24 80, sensor 80. I see we have a
25 warning, alarm, warning --- okay,

154

01 then we go to 53, all right. And why
02 did it do that? Could you explain
03 that? There's like multiple alarms.
04 A. I don't know. I don't know
05 why.
06 Q. It says 10, 11, 14, 15, 15,
07 10, yeah ---.
08 A. I don't know why it did that.
09 I don't know.
10 Q. Did each one of these set off
11 a new alarm that you had to

12 acknowledge again; do you know? Do
13 you remember? It's been a while.
14 A. I can't recall if I did or ---
15 I can't recall.
16 Q. Okay.
17 A. I can't recall.
18 Q. And then the next sensor that
19 appears to be --- go into a warning
20 state is sensor 80, and I think 80 is
21 a familiar number here. It was ---
22 yep, it's the first one on the ---.
23 A. Seven-foot --- six-foot belt
24 line?
25 Q. Yes, 72-inch belt, Number

155

01 Seven belt going in towards the
02 longwall mother drive; right?
03 A. Yes.
04 Q. Okay. And then let's turn the
05 page here. And then that sensor goes
06 into --- 81 sensor goes into a
07 warning, okay. And that's --- sensor
08 81 is the same sensor that we had on
09 the 19th, is that right, and that's
10 at the tailpiece or down the
11 tailpiece of the 72-inch drive?
12 A. Yes.
13 Q. In the northeast mains?

14 A. Uh-huh (yes).
15 Q. And let's look at the time
16 between when that one went into ---
17 the last one, 81, went into a warning
18 at 1903:31, and the date is the 29th.
19 A. Okay.
20 Q. Do you believe that's the
21 29th, too?
22 A. Yes. Yes.
23 Q. The staple is kind of in the
24 way for seeing ---. And it all
25 started on the 29th, at 1819:52. So

156

01 we're looking at from 1819:52 to
02 1903:31. That's over half an hour,
03 I'd say, 40 minutes, something like
04 that?
05 A. Right.
06 Q. And what did that sequence of
07 events indicate to you when you saw
08 that on the screen?
09 A. When 94 went off, I contacted
10 --- I knew who the beltmen were, so I
11 hollered for --- first I hollered for
12 Karl White.
13 Q. Is he a beltman?
14 A. Yes.
15 Q. Was he a supervisor?
16 A. No. And Junior Robinson was

17 the next beltman, so he --- I
18 couldn't get ahold of Karl, so he
19 answered me. He said, what do you
20 need, Mike. I don't know where Karl
21 is. What do you need. So I told him
22 what was happening. He said, well,
23 I'll go down and check it. And him
24 and Karl got together somewhere along
25 the trip and they went to check it

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01 out. And when they got to that, he
02 called me back and said that there
03 was a belt segment smoldering, said
04 it was smoldering.

05 Q. Shavings that had piled up on
06 the ground?

07 A. Yes, for whatever reason. But
08 they --- he said they were smoldering
09 and it was causing setting the alarms
10 off. So he also said he was going to
11 put a fire extinguisher on it. And
12 he said that he used two fire
13 extinguishers on it and it was still
14 smoldering.

15 Q. This is before he called you
16 the first time or called you back?

17 A. He called me back the second
18 time to tell me --- to proceed to

19 tell me what was happening. And so
20 he asked --- when he called back and
21 told me that he had used two fire
22 extinguishers on it and it was still
23 smoldering, he got out of the smoke.
24 I don't know which direction he went
25 to get out of the smoke.

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01 Q. Do you know if he put his SCSR
02 on or did he tell you?
03 A. No, he didn't put it on. He
04 got out of the smoke. Him and Karl
05 both got out of the smoke. And he
06 asked me to get ahold of --- David
07 Meade was the mine foreman that
08 night, and he asked me to get ahold
09 of Dave. And I got ahold of Dave,
10 and Dave went up to assist them. And
11 what took place --- he --- they got
12 it out. They got the fire out. They
13 called me back, and that's when I
14 made the entry fire at 1.95, seen
15 smoke up the line, fire put out.
16 That's what I put in the log. And he
17 brought Junior Robinson outside
18 because he was --- his breathing was
19 shallow and he wanted to come out.
20 Q. Because of the smoke that he
21 was in?

22 A. Yeah. He wanted to come out
23 where there was fresh air.
24 Q. Do you know if he went to the
25 hospital?

159

01 A. I'm not for sure if he did or
02 not.
03 Q. Do you know if he called you
04 after all the alarms started ---
05 stopped?
06 A. I can't recall if they called
07 me back or not. I can't recall. I
08 know they called for the road. They
09 called me for the road to come
10 outside, and --- but it was --- I'm
11 trying to recall everything that
12 happened that night. When Junior
13 told me he used two fire
14 extinguishers on the fire and it was
15 still smoldering, he got out of the
16 smoke and wanted me to get ahold of
17 David Meade. And it was Dave that
18 called me to let me know that it was
19 out, that the fire was out. And when
20 the --- and then later on, I don't
21 know how long it took place, maybe
22 ten minutes, they called for the road
23 to come out. He was bringing Junior

24 out. Well, his name is Wyatt
25 Robinson. We call him Junior. So

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01 when --- because Junior wanted to
02 come outside where there was fresh
03 air. He wanted to breathe, he felt
04 like he was smothering from the
05 smoke.

06 Q. Yes. Do you know if anybody
07 notified --- well, let me ask before
08 that, do you recall what the highest
09 value on the CO was? Like some of
10 these you have down what the values
11 were, and this one down here didn't
12 have it. And I'm just curious ---.

13 A. I can't remember. I can't
14 remember. It didn't go --- it didn't
15 go very high, maybe in the upper 20s.
16 It didn't go very high.

17 Q. For all of them?

18 A. Yeah.

19 Q. For any of them?

20 A. Yeah.

21 Q. Do you know if anybody --- did
22 anybody call out and tell you that
23 there was smoke coming in on anybody?

24 A. No. No.

25 Q. Did anybody tell you to notify

161

01 the sections and evacuate them?

02 A. No.

03 Q. Do you know why they didn't?

04 A. I have no clue, no.

05 Q. Did anybody tell you not to

06 call anybody?

07 A. No.

08 Q. Do you know how long it was

09 before the first alarm and when you

10 got a call back from either Karl

11 White or Junior Robinson?

12 A. I'd say 10 to 15 minutes.

13 Q. From the time of the first

14 alarm?

15 A. Yes, because of their

16 location, how --- the time they had

17 to travel, I'd say it was 10 to 15

18 minutes.

19 Q. Is that unusual that it takes

20 that long?

21 A. No. No, that's pretty common.

22 Q. And that's --- I guess I was

23 thinking about something else while

24 you were answering that, so maybe I

25 didn't quite understand. The alarm

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01 goes off, you call them, and how long

02 did it take before you actually got

03 ahold of them on the phone?

04 A. When I saw the alarm going off

05 and I tried to contact them, how long

06 did it take?

07 Q. Yes.

08 A. Three to five minutes. It

09 didn't take long.

10 Q. And then from that time that

11 you first talked to them until they

12 called you back, telling you what

13 they have, it was how long?

14 A. Between 10 to 15 minutes.

15 Q. And at that time, they had

16 already told you that they tried to

17 put a couple fire extinguishers on

18 it, ---

19 A. Yes.

20 Q. --- but didn't get it; is that

21 correct?

22 A. Correct.

23 Q. Told you that there was a pile

24 of ---

25 A. Yes.

163

01 Q. --- shavings ---

02 A. Yes.

03 Q. --- smoldering?

04 A. Correct.

05 Q. Did they ever say they saw

06 flames?
07 A. No. No.
08 Q. Did they say they didn't see
09 flames or did they just not say
10 anything?
11 A. They said they didn't.
12 Q. They told you they didn't?
13 A. Yeah. When they came out,
14 they said there wasn't no flames. It
15 was just smoldering.
16 Q. Okay. There was some things
17 in here that I wasn't sure of.
18 You're right above this here one.
19 This is Exhibit C, 12/29/2005,
20 1800:19:52. I'm sorry. Skip that
21 time. It's 12/29/2005, 0524:37
22 hours. It says 1.3 belt boss
23 stopped, fire suppression activated.
24 What does that mean? Do you know
25 what that means?

164

01 A. I'm not for sure.
02 Q. It's this one here. It says
03 --- it's right --- yes, right here.
04 A. Yeah. I'm not for sure. I'm
05 not for sure what that means.
06 Q. Okay.
07 A. It doesn't --- it --- the only

08 thing that it sets off is the belt
09 boss screen. It will set that off.
10 And I can inform the section foreman
11 that his belt is off because of fire
12 suppression. And what they do to
13 eliminate that, I don't know. I
14 don't know what's involved in that.
15 I don't know.
16 Q. Where is the belt boss screen?
17 What is that?
18 A. On this ---.
19 Q. The same computer that has
20 the ---?
21 A. When I click on this line
22 here, it will bring up another window
23 that says belt boss ---.
24 Q. And just so everybody can
25 understand when they're reading this

165

01 later, the line that you're talking
02 about is --- you're just showing the
03 first flight of belt going into Three
04 section. When you click on that
05 segment of belt ---?
06 A. Yes, it will bring up another
07 window.
08 Q. On the same screen?
09 A. Like on the top of this one it
10 says map. On the top of that new

11 window it will say belt boss. And I
12 guess that's just part of the
13 program. But it will have a --- I
14 can stop the belts on that screen.
15 Q. Okay.
16 A. And it will also show sensors
17 that went off, and one of the sensors
18 is a fire suppression.
19 Q. Okay. So it shows everything
20 that the belt boss system is
21 monitoring, is that the way you
22 understand it?
23 A. Yes.
24 Q. Just here the same date, prior
25 to that, I see like several of these

166

01 fire suppression activated, on 1.3
02 belt again --- 1.3 belt boss. I
03 don't know how to identify that, but
04 somebody will be able to tell us.
05 This is all on the 29th. 0112:16
06 hours, okay. And there's another one
07 there that says fire suppression
08 activated, the same identity on the
09 belt, 1.3. This is 0119:58 hours.
10 And down here again, again on the
11 29th, it says same belt boss, 1.3
12 belt boss, fire suppression

13 activated. And it says 0121:54 is
14 the time on that one. And another
15 one, there's 0145:15, same day, the
16 29th, it says 1.3 belt boss stopped,
17 fire suppression activated. One of
18 them says fire, the other one says
19 stop. Do you know what that means?
20 A. No, no clue.
21 Q. Okay. All right. Do they do
22 tests on the fire suppression system
23 underground? Do they do tests
24 routinely; do you know?
25 A. I don't know.

167

01 Q. Does anybody ever call you to
02 say, hey, Mike, if you see the screen
03 go off on your alarm, you know, it's
04 not an alarm, we're just doing a test
05 and just so you're aware of it so
06 that you understand what's going on
07 and then tell you after they've
08 conducted the test that, you know, it
09 should be reset for you? Does
10 anybody ever tell you that?
11 A. No one has ever told me, no.
12 Q. Okay. Have you ever called in
13 about something like this, called
14 about fire suppression activated?
15 A. Yes.

16 Q. And has anybody ever told you

17 --- what have they ever told you?

18 A. I'll take care of it or ---.

19 Q. Ever call you back and

20 say ---?

21 A. No. It's always cleared on

22 the screen. Their belt is started

23 back up.

24 Q. Okay. Are the pumps

25 monitored, the water pumps? There's

168

01 two booster --- I don't know if you

02 know, there's two booster water pumps

03 in the mine water system in the north

04 mains that provide additional water

05 pressure for the inby --- the mine

06 soaks uphill as you're going in ---

07 A. Yes.

08 Q. --- and you need those booster

09 pumps to provide a sufficient amount

10 of water for your sections and

11 firefighting. Do you know if they're

12 monitored by any of your computer

13 systems?

14 A. If they are, I don't know.

15 Q. Okay. Do you use --- these

16 two CO printouts that we have here,

17 they're Exhibit C and B, do you use

18 these for anything?
19 A. No.
20 Q. Do you ever print them out?
21 A. The machine prints it out
22 itself.
23 Q. Automatically?
24 A. Yeah. And we just put it in a
25 milk crate actually.

169

01 Q. Okay. Does anybody ever come
02 and look at them?
03 A. Not on my shift they haven't,
04 no.
05 Q. Does the crate just kind of
06 get thicker and thicker?
07 A. Yes.
08 Q. Do you know what they do with
09 it once the crate fills up?
10 A. I have no clue.
11 Q. How about this book here,
12 Exhibit A?
13 A. I don't know what they do with
14 that when it fills up. I don't know.
15 Q. Has anybody --- has your
16 supervisor ever looked at it while
17 you're on shift?
18 A. Yes. Yes.
19 Q. Do you know what he looked at
20 it for?

21 A. No.

22 Q. Did he ever ask any questions
23 about what he was reading in it?

24 A. No.

25 Q. Has he ever said anything to

170

01 you --- or has anybody ever said
02 anything to you about what
03 information is in the book?

04 A. Did they ask me what
05 information was in the book, is that
06 what you ---?

07 Q. Have they ever said --- well,
08 just like this one, on this one that
09 we just looked at on 12/29/05 that
10 was your input into it, has anybody
11 ever said, hey, Mike, and then asked
12 you any questions about that or any
13 other entries that you've had?

14 A. I can't recall.

15 Q. I guess just to see if there's
16 a --- trying to find out more
17 information ---

18 A. Right.

19 Q. --- from you about what went
20 on that night or something like that.
21 You don't recall?

22 A. I can't recall if they did or

23 not.

24 Q. Did anybody ask you anything

25 about that specific night there, the

171

01 29th?

02 A. I can't recall if they did or

03 not. I can't remember.

04 Q. Let's stay with this

05 Exhibit A.

06 A. Okay.

07 Q. That was the first one --- we

08 started at the bottom and was coming

09 up the page. Can you tell me any

10 others that are your entries?

11 A. The one --- the 12/23/05 is.

12 Q. 12/23/05?

13 A. Yes.

14 Q. It says what, sensors 82 and

15 81, ---

16 A. Yes.

17 Q. --- fire, ---

18 A. Yes.

19 Q. --- contacted Brandon Conley?

20 A. Yes.

21 Q. Do you happen to have ---

22 Exhibit C also has --- that's the CO

23 printout log, also has some dates and

24 information here from the 23rd of

25 December 2005. And I'm going to work

01 on this, and then I'm going to turn
02 it around so you can look at it
03 again.
04 A. Okay.
05 Q. Let's see. 2155:29, I'm just
06 going to underline that entry.
07 Actually, it's not an entry. It's
08 just a line on the printout. It says
09 82 CO monitor warning, four parts per
10 million, okay. The date is
11 12/23/2005, 2155:29 hours. Okay?
12 A. Uh-huh (yes).
13 Q. And that 82 sensor is the same
14 sensor we've been talking about here
15 on the longwall belt head; is that
16 correct?
17 A. Exactly. Yes.
18 Q. And then very shortly --- or
19 sometime after that --- not very
20 shortly, sometime after that, at
21 2200:13:27 hours, the sensor goes
22 into alarm; is that correct?
23 A. Yes.
24 Q. This entry here shows 81 and
25 82 in this Exhibit A, ---

01 A. Uh-huh (yes).

02 Q. --- and it says fire. And is
03 that fire what was on the screen or
04 what someone told you underground?
05 A. No. That's what was on the
06 screen. It was reading fire.
07 Q. Do you recall anything
08 specifically about that event?
09 A. Not a whole lot I can tell
10 you, but Brandon was the one I
11 contacted and he went to it, and he
12 said the belt was rubbing.
13 Q. Okay.
14 A. And he monitored that and he
15 got it --- I don't know if he trained
16 the belt or what he done to get it to
17 stop, but he stopped it from smoking.
18 Q. Stopped it from smoking?
19 A. It was just smoke from the
20 belt rubbing.
21 Q. Did he say where the smoke was
22 going?
23 A. No, he didn't say.
24 Q. Did anybody call out and say,
25 hey, we got smoke coming in on us?

174

01 A. No. No.
02 Q. Do you remember, did you call
03 him or did he call you?
04 A. I called him, I'm pretty ---

05 yeah, I called him.

06 Q. Down here, on 81, a few

07 entries down below that --- actually,

08 before we get to that, this 102, do

09 you know where 102 sensor is?

10 A. I have no clue. I have no

11 clue. I was looking at that thing.

12 I don't know.

13 Q. It says CO monitor goes into

14 alarm, zero parts per million CO.

15 A. I couldn't tell you.

16 Q. And the next entry says, 102,

17 CO monitor, alarm latch set, zero

18 after that.

19 A. I have no clue.

20 Q. And the one after that, same

21 location of the sensor, warning latch

22 set. Then the next one says, same

23 location sensor, it says maximum CO

24 value obtained, then it's cut off on

25 this. I'm assuming that the printout

175

01 only captures what's on the screen,

02 and it continues on in the database?

03 A. Exactly. Yes.

04 Q. And then it continues through

05 several of those 102 monitors. And

06 then we hit the 81 and it goes into a

07 warning and then an alarm. And now
08 we're down to --- what time is
09 that, ---
10 A. 2217.
11 Q. --- 2217?
12 A. Yeah.
13 Q. So that's quite sometime after
14 the first alarm at 82; isn't it?
15 A. Yeah.
16 Q. I mean, 82 first went into a
17 warning at 2155, and then it goes
18 into an alarm at 2213. And then the
19 next sensor, 81, goes into an alarm
20 at four minutes after that, ---
21 A. Yeah.
22 Q. --- 2217; is that correct?
23 A. Yes.
24 Q. All right. Then let's follow
25 down through here. And where is that

176

01 cleared? It looks like 82 clears
02 down here at 2239. Does that look
03 about right to you?
04 A. Yes.
05 Q. Eighty-two (82) sensor clears
06 at 2239, 41 minutes --- or 41 seconds
07 on 12/23/2005. Okay.
08 A. I don't even see 81 on there.
09 Q. No. I don't see 81 clearing;

10 do you?

11 A. Uh-uh (no). No.

12 Q. No. Now, the last entry for

13 the times on that one is --- this

14 sheet goes down to 12/23/2005,

15 2300:27:40. And then that's the last

16 entry for that day. And then we're

17 over to nine o'clock in the morning

18 on the 24th is the next entry.

19 A. Uh-huh (yes).

20 Q. So at least, I guess, up to

21 2327:40 on the 23rd it doesn't appear

22 that the computer printout records

23 that it ever stopped or was cleared

24 at 81; is that correct? I mean, is

25 that the way you read this?

177

01 A. Yes.

02 Q. Okay. And I'm not asking you

03 questions about it. We're just kind

04 of going through the facts on this

05 and the other sheet.

06 A. Right.

07 Q. Okay. And are you aware of

08 anybody notifying anybody to

09 evacuate?

10 A. No.

11 Q. Do you know if they were

12 loading coal on Two section?
13 A. Not for sure.
14 Q. Is there some way that we
15 could go back in time and say on the
16 23rd here that they were loading coal
17 on Two section by the computer
18 system's record of the belts that are
19 operating on a given time?
20 A. I wouldn't know how, no.
21 Q. Okay. Do you recall on the
22 29th --- I'm jumping around on you a
23 little bit. You made me think of
24 something. On the 29th of December,
25 when that fire occurred on the main

178

01 north belt, at sensor 94, outby 94,
02 do you recall if they were loading on
03 either the longwall or Number Two
04 section then?
05 A. I can't recall because there
06 weren't --- there weren't that many
07 people working. That's why Dave
08 Meade was working. It was like
09 the ---.
10 Q. Between holidays.
11 A. Yeah. It was between
12 holidays. So I can't say yes or no.
13 I don't remember.
14 MR. TUCKER:

15 Do you need a break
16 before we start?
17 A. Yeah. I need to go to the
18 restroom.
19 SHORT BREAK TAKEN
20 BY MR. TUCKER:
21 Q. Okay, Mike. I'm trying to
22 fill in some gaps in my mind, so just
23 bear with me. I'll be going in a
24 couple different locations with the
25 line of questioning here.

179

01 A. Okay.
02 Q. Who did you mention that you
03 had taken your 80-hour class from?
04 A. S&B Mining.
05 Q. S&B Mining. Do you know who
06 that is?
07 A. Susan --- I can't remember her
08 last name. I've got my paper in my
09 pocket if you need that name. Susan.
10 I can't remember her last name. I
11 can't recall her last name. It's in
12 Madison.
13 Q. Okay. That's your two-week
14 class ---
15 A. Yes.
16 Q. --- that you took?

17 A. Yes.

18 Q. And where did you take your
19 test at?

20 A. I can't recall the name of the
21 place.

22 Q. Danville?

23 A. Yeah, it was at Danville. Up
24 on the hill in the Cedar (phonetic)
25 building.

180

01 Q. I got you. Okay. Did you
02 ever call 9-1-1 ---

03 A. Have I ever ---?

04 Q. --- the night of the 19th, the
05 day of the 19th?

06 A. No.

07 Q. Do people who travel in and
08 out of the mine, do they usually let
09 you know --- or how does that work?
10 Do they let you know so that you will
11 keep track of where people are at?

12 A. For the most part, yes.
13 There's times that they don't call me
14 when they arrive at the section, but
15 for the most part, yes.

16 Q. Before they leave to go
17 underground ---

18 A. Yes.

19 Q. --- they tell you where

20 they're going?

21 A. Yes.

22 Q. Do you usually know how many
23 people are --- like if you're doing
24 outby work in a construction area,
25 would you know how many people were

181

01 at that area?

02 A. No.

03 Q. Just that somebody would be in
04 that general area?

05 A. Yes.

06 Q. Are you able to communicate
07 with people on the diesel mantrips in
08 any way?

09 A. No.

10 Q. How do you communicate
11 underground with people when you try
12 to contact --- what means of
13 communication?

14 A. The mine phones.

15 Q. Only the mine phones?

16 A. Yes.

17 Q. If you had problems with the
18 CO system, who would you report those
19 to? Say if you had problems that you
20 weren't sure about maybe the way it
21 was operating, you thought maybe it

22 was malfunctioning, who would you
23 report that to?
24 A. I would inform my foreman, the
25 mine foreman that night.

182

01 Q. Can you turn off the longwall
02 belt from outside?
03 A. No.
04 Q. Have you had many problems
05 with the CO monitors in the mother
06 drive area on that belt?
07 A. No more than anywhere else.
08 No.
09 Q. Are you aware of an emergency
10 notification and call list?
11 A. Yes.
12 Q. Is it posted somewhere or ---?
13 A. Yeah. It hangs on the wall
14 beside the dispatcher's desk.
15 Q. If the mine fan would go off,
16 do you receive an alarm in the
17 dispatcher's office?
18 A. I was told that, but it's
19 never happened.
20 Q. Never happened on your shift?
21 A. No.
22 Q. Has the fan ever went off on
23 your shift?
24 A. No.

25 Q. Okay. Who receives the alpha

183

01 reports you had mentioned?

02 A. Duane Francisco, Don

03 Blankenship, Chris Adkins, Pepe

04 Lester, Eddie Lester, Drexel Short.

05 You name them, they're there. Just

06 about everybody.

07 Q. I hope you can make one click

08 and send it to all of them?

09 A. That's what happens, yeah.

10 Q. Okay. If you'd forget to send

11 a report --- have you ever done that?

12 A. Oh, yes.

13 Q. Who's quick to call you to ask

14 about it?

15 A. Duane Francisco or Drexel and

16 Collin Medley (phonetic). They call

17 a lot.

18 Q. This may have already been

19 asked, but do you keep notes on all

20 the activities that occur on your

21 shift?

22 A. No. The traveling on the

23 roadways, who's --- their departure

24 and their arrival, that's all. Their

25 phone calls, anything like that, no.

184

01 Q. Do you keep notes of any
02 problems that may occur on your
03 shift?

04 A. Only in the CO monitor book
05 that we've been reviewing here.

06 Q. If you get a CO alarm, can ---
07 how do you --- can you just silence
08 the alarm? How does that work?

09 A. By acknowledging the alarm, it
10 silences the alarm.

11 Q. Does the audible ever restart?
12 Once you acknowledge that alarm,
13 would the audible alarm ever come
14 back on for that same sensor?

15 A. Yes, it would. When it hits a
16 warning and I acknowledge it, if it
17 --- if the parts per million go up
18 high enough --- I believe it's ten.
19 I'm not for sure. If it goes up to
20 that point and then show fire, it
21 will alarm again. It will do an
22 audible again.

23 Q. If you acknowledge it at that
24 point, ---

25 A. No.

185

01 Q. --- will the alarm ever come
02 back on as an audible alarm?

03 A. No.

04 Q. It just flashes?
05 A. Yes.
06 Q. Did you receive the fire alarm
07 the night of the 19th on your system,
08 CO monitoring system?
09 A. Yes, later on in the ---
10 through the process, yes. First, it
11 was a warning. That's when Bryan was
12 trying to get ahold of Fred Horton.
13 And then he contacted me. And in
14 between the time that --- Fred took
15 over the conversation with Bryan, and
16 I listened up to the point where he
17 said that there was smoke and he had
18 used the fire extinguishers and he
19 needed more. I listened up to that
20 point. Somewhere between --- after I
21 quit listening, it went up to 107
22 parts per million and fire, yes.
23 Q. At what point in your mind did
24 you --- did you know that you had a
25 real fire?

186

01 A. When Bryan --- I heard Bryan
02 tell Fred that he saw flames. And I
03 knew then --- I began to --- myself,
04 I began to get stressed.
05 Q. Right. Do you keep any other

06 records in your office, such as maybe
07 keeping track of acetylene and
08 oxygen or any ---

09 A. Yes.

10 Q. --- other records of that
11 nature?

12 A. Yes. We keep an acetylene and
13 oxygen book and also a blasting
14 powder book. I've never had to use
15 it, but the oxygen and acetylene is
16 used a lot.

17 Q. And it's maintained in the
18 dispatcher's office?

19 A. Yes.

20 Q. When a fire alarm shows on
21 your screen and you acknowledge it,
22 have you ever, yourself, personally
23 shut the belts down because of a fire
24 alarm on your screen?

25 A. Not because of the alarm, no.

187

01 No.

02 Q. Okay. Do you know of any
03 cases where you got a fire alarm and
04 you sent somebody to check it out and
05 realized you had a problem and then
06 shut the belt off?

07 A. I'm trying to remember if I
08 did that that night that Junior

09 Robinson was involved in that. I
10 can't remember if I shut the belts
11 off or they did. I believe they did.

12 Q. Was that on the 29th?

13 A. Yes, of December. I think
14 they cut it off.

15 Q. On the 23rd, when you had the
16 incident at the mother drive, do you
17 know if the longwall crew was still
18 producing coal when that occurred?

19 A. I don't recall. I don't know.
20 I don't know if they were or not.

21 Q. Do you remember if it was
22 close to the end of the shift?

23 A. I can't recall that either. I
24 don't know.

25 Q. Did you hear any discussions

188

01 when that occurred about water being
02 applied to a fire at the mother
03 drive?

04 A. No. No.

05 MR. TUCKER:

06 Just for the record or
07 just to mention, we have
08 another representative of
09 Miners' Health, Safety &
10 Training in the room now.

11 I'll have him introduce
12 himself.

13 MR. BRADFORD:

14 I'm Tim Bradford.

15 MR. TUCKER:

16 Thank you.

17 BY MR. TUCKER:

18 Q. How did you alert workers who
19 were working in outby areas the night
20 of the 19th, or did you alert any
21 other ---?

22 A. No, I only alerted --- I only
23 alerted the sections. The other men
24 that was --- I don't --- I'm almost
25 positive Three section wasn't running

189

01 that night. But the only other
02 person that called me, thanks to the
03 question, that came to my mind was
04 Brandon Conley. He was the only one
05 that hollered at me and asked me what
06 was going on. Because I don't know
07 if he was listening over the phone or
08 what, but he contacted me and wanted
09 to know what was going on and I told
10 him. And I asked him to come to the
11 Three way because at this time they
12 were --- by the time he had called
13 me, they had done decided to

14 evacuate. And I told him to come to
15 the Three section and wait for a ride
16 --- I mean the Three way and wait for
17 a ride.

18 Q. Do you know of any other
19 workers other than Brandon who were
20 underground on the evening shift of
21 the 19th in different locations?

22 A. Just Pat Callaway and Joe
23 Rose, them two. But they went to
24 help put the fire out. I'm pretty
25 sure.

190

01 Q. You're not sure if there was
02 anybody on Three section doing work
03 or anything like that?

04 A. I can't recall. I can't
05 recall, no.

06 Q. You had mentioned earlier that
07 you've had conversations since the
08 night of the fire with other
09 employees about the fire and what was
10 done. Would you care to just share
11 some of that information with us and
12 some of those discussions about what
13 happened on the 19th, who those was
14 with, if you can think of any?

15 A. I can't recall names. I know

16 --- because there was ---.
17 Q. From the gist of the
18 conversation ---?
19 A. We just talked about what each
20 of us was experiencing at that time,
21 what we had done, pretty much what I
22 told you, I guess. And now when the
23 men came out --- they all know that I
24 go to church. And when they came up
25 to me and they asked me did I --- was

191

01 I --- they asked me if I had prayed
02 for the men, and I told them yes.
03 And we all stopped and we prayed.
04 Q. Right. And I respect that.
05 And the reason I'm asking about the
06 conversations is sometimes we try to
07 ask questions to get all the
08 information we can about what
09 happened. I'm just trying to jog
10 your memory if there's ---
11 A. Right. Right.
12 Q. --- something maybe that we've
13 left out.
14 A. Yes.
15 Q. If we can briefly go over
16 again the --- I'm trying to establish
17 some time frames on when you --- and
18 the chain of events from when you

19 first got the alert on the CO system
20 that you had a problem. If you could
21 just go through that slowly on ---
22 and if you can recall any times that
23 --- you know, that you may have
24 looked at your wristwatch or the
25 watch on the alpha system, if you can

192

01 tell us those times, it would be very
02 helpful.

03 A. When the alarm sounded, I'm
04 pretty sure it was 5:30 on the alpha
05 system computer. And I got from ---
06 when I make my log sheet, when I'm
07 logging the people going in and out,
08 sometime during my shift when it
09 starts slowing down, I'll redo it to
10 make it legible, okay.

11 Q. Right.

12 A. And that's what I was doing
13 when the alarm went off. So I got up
14 and I went over and I acknowledged
15 the alarm, and I proceeded --- I
16 walked back to the desk and sat down.
17 And it was right then that Bryan
18 started hollering, and he's hollering
19 for Fred Horton. And I picked up the
20 phone, and he proceeded to holler for

21 Fred and he couldn't get him and he
22 asked for me. He said, dispatcher.
23 And I said, go ahead, Bryan. And he
24 said, where's Fred at. I said, I'm
25 not sure, but I think he's at Three

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01 section, unless he's moved. And he
02 said, I really need to talk to him.
03 And about that time Fred picked up
04 the phone, and him and Fred started
05 conversing. And he told Fred that
06 that entryway was filled with smoke
07 and he couldn't --- he couldn't get
08 to where the smoke was. And Fred
09 asked him what he needed. He said, I
10 need a chain hoist because the dolly
11 is caught. I don't know what that
12 means, but that's what he said. And
13 he --- and Fred said, okay, I'll get
14 you a hoist. And they --- I don't
15 know how much time elapsed between
16 then and the next call. Bryan
17 hollered for Fred again and Fred
18 answered. And Fred, he asked ---
19 Fred asked him, he said, what's
20 happening outby. And he said, I
21 can't get to it. It's just too bad.
22 He said, well, tell me what's going
23 on. He said, I see flames. And he

24 said, I've already used two --- he
25 might have said three, fire

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01 extinguishers, he said, but I can't
02 reach it good enough. And he --- I
03 don't know if it was obstructed from
04 him or the smoke was stopping him or
05 what. He said that. And when he
06 said that, I knew that it was bad.
07 And it was then that --- it was --- I
08 hung up the phone because I knew it
09 was bad. And I don't know who told
10 Rod or how it got to him, but he was
11 upstairs. They were all upstairs
12 getting ready to leave. And Rod
13 Morrison, Ed Ellis, Bob Massey
14 and --- Rod Morrison, Ed Ellis, Bob
15 Massey and --- gosh, I always can't
16 remember the fourth person. These
17 four men, they told --- Rod told me,
18 he said, we're going underground, to
19 contact Gary Goff, Pepe Lester and
20 Eddie Lester and get the men off the
21 section. I said, okay.

22 Q. Do you have any idea what time
23 it was ---

24 A. No.

25 Q. --- when that occurred?

01 A. No. I have no idea.

02 Q. How much time would you
03 estimate that to be from the time
04 that you originally got your first
05 alarm ---

06 A. From 5:30 to ---?

07 Q. --- that you acknowledged the
08 alarm on the CO system to the point
09 that all this has occurred
10 underground, then they call out
11 and ---?

12 A. I'd say 30 minutes or longer.

13 Q. Okay. Did you hear any
14 discussion between Bryan and Fred
15 about the belt, if it was still
16 running or if it had been shut off at
17 that point?

18 A. No.

19 Q. Do you know what time the belt
20 was shut off?

21 A. Not for sure, no.

22 Q. Do you know who shut the belt
23 off?

24 A. Uh-uh (no). No.

25 Q. Okay. Did you hear any other

01 conversation over the phone, maybe

02 just hollering over the phone, maybe

03 --- do you recall hearing a pager ---
04 maybe a pager going off and just
05 somebody hollering over the phone? I
06 mean, you mentioned you heard ---
07 A. I've heard --- I heard people
08 call ---
09 Q. --- Fred and ---?
10 A. --- for other people.
11 Q. Fred and Bryan calling ---.
12 A. I heard people call for other
13 people, to page for other people.
14 Like I heard Rod holler for Fred, and
15 I heard Fred holler at Rod. And Pat
16 Callaway, I heard him over the phone.
17 But I didn't hear the conversation.
18 All I heard him say was, hey, ---
19 hello, Fred, hello, Fred or, you
20 know, whoever the name was. I didn't
21 hear the conversation.
22 Q. You don't know who Pat
23 Callaway called?
24 A. I can't recall who he hollered
25 at, no. But I heard --- I remember

197

01 hearing his voice, yes, paging for
02 someone. Maybe it was Rod Morrison
03 or --- I know it was some --- it
04 wasn't --- I know for sure it wasn't

05 Fred because --- well, I shouldn't
06 say I know for sure because they were
07 in that same vicinity, from what I
08 understand. And I know --- well, I
09 can't say I know.

10 Q. So Fred Horton, when he got on
11 the phone and you said that you had
12 shut the belt off and Mr. Plumley had
13 came to the phone and you had started
14 telling him about the smoke, ---

15 A. Yes.

16 Q. --- what did --- do you know
17 where Fred was at?

18 A. No, I have no idea. He had to
19 be --- he had to be right there
20 around the mother drive somewhere
21 because he had already made it up
22 there because he had --- from the
23 time that elapsed, he had to be up
24 there because he was taking Bryan the
25 --- more fire extinguishers.

198

01 Q. Did Mr. Horton mention about
02 anyone else coming to help; ---

03 A. No.

04 Q. --- do you recall?

05 A. Not that I recall, no. No.

06 Q. Okay. So originally when
07 Bryan called Fred, you said you was

08 pretty sure he was at Three section?

09 A. Yeah. Yeah.

10 Q. Then later, when the crew was
11 called --- and I know that you said
12 Bryan had called Fred another time
13 after that and explained to him that
14 the situation had gotten worse.

15 A. Yeah. I don't know where he
16 was then.

17 Q. Okay. And then from that
18 point, then later you shut the belt
19 off and you notified the section.
20 And at that point, you think that
21 Fred was there at the mother drive
22 and saw what was going on himself?

23 A. Yes. I just assumed he was,
24 yeah.

25 Q. Because you think enough time

199

01 had elapsed at that point ---

02 A. Yes, for him to have made it
03 there.

04 Q. --- for him to have made it up
05 there?

06 A. Yes.

07 Q. How long would you estimate it
08 to take to get from Three section to
09 the mother drive?

10 A. Three section to the mother
11 drive, ten minutes probably.
12 Q. Did you hear any discussion
13 about evacuating the crews?
14 A. No, only what Rod told me to
15 do.
16 Q. That was just direction. He
17 had directed you to evacuate?
18 A. Yeah, to --- yeah.
19 Q. But did you hear any
20 discussion prior to that ---
21 A. No.
22 Q. --- as to about the crews,
23 what to do or not to do?
24 A. Not that I can recall, no.
25 Q. Do you know if Pat was with

200

01 Bryan when he told Fred that he saw
02 flames?
03 A. I don't know that either, no.
04 Q. On the 19th or at any other
05 time, have you ever been told not to
06 mention the word fire over the phone?
07 A. Yes.
08 Q. Okay. Who told you that?
09 A. Gary Goff's told me that.
10 Pepe Lester has told me that, you
11 know, because it will --- I mean,
12 they tell you not --- they told me

13 not to put it in my longwall reports
14 because --- I'll give you an instance
15 of something that took place.

16 Q. Okay.

17 A. The fire suppressions, I guess
18 that that's not a fire, that's just
19 the fire suppression system. And one
20 of our dispatchers had put in the log
21 fire suppression, and when the page
22 went out, the page didn't --- it
23 didn't take the suppression with it,
24 it only had fire in it. So we had
25 calls on top of calls. Everybody

201

01 wanted to know if there was a fire.
02 So we were told not to alert anyone
03 in that sense to put fire in there,
04 unless we were clear that it was.

05 Q. So if you were sure that there
06 had been a fire, if you was sure that
07 there had been a fire, ---

08 A. Yes.

09 Q. --- would you notify different
10 people of that fire or would it go
11 out on your two-hour report?

12 A. No, it wouldn't go out on the
13 two-hour report. If a fire happened,
14 I was to contact Gary Goff, Pepe

15 Lester and Eddie Lester. Those were
16 the three. And they took control
17 from there.

18 Q. Okay. If you have an accident
19 at the mine, do you make the call to
20 9-1-1 for an ambulance or ---?

21 A. Yes. Yes. Call 9-1-1 and get
22 ahold of our safety director, Charles
23 Kahn (phonetic), I believe, or --- I
24 think it's Charles Kahn.

25 Q. At any point on the 19th were

202

01 you told to get ahold of everybody
02 and get them out of the mine? Did
03 anybody give you direction to do
04 that?

05 A. Rod Morrison told me to
06 evacuate Two section and the
07 longwall, yes.

08 Q. Did you get any other
09 instruction from anybody about
10 bringing everybody out of the mine?

11 A. Not that I can recall, no.

12 Q. We had some discussion
13 earlier, we were talking about an
14 emergency and different alarms that
15 you get on your system. And you had
16 mentioned maybe that now if you got
17 an alarm, maybe you'd do something

18 differently, and you've had some
19 discussion on that. What would you
20 do differently now if you got an
21 alarm or it showed fire or --- you
22 know, you mentioned maybe that now,
23 looking back, if something happened
24 again, that maybe you'd react
25 differently or ---.

203

01 A. I would, to my best ability,
02 respond faster. I feel I didn't
03 respond fast enough. But I would
04 respond quicker and I would contact
05 not --- I would contact not only
06 whoever --- somebody to respond to
07 that CO, but I would contact a
08 foreman and somebody in a hurry. I
09 would get ahold of somebody with some
10 authority.

11 Q. I probably already asked this,
12 Mike, but after Bryan Cabell called
13 Fred Horton, his initial call, when
14 basically you were talking to him and
15 then Fred got on the phone, when he
16 tried to get ahold of Fred and that,
17 you know, and you all were all
18 talking there, how much time do you
19 think elapsed from that first

20 conversation until Rod Morrison
21 called and asked you to call the
22 section?
23 A. At least --- I'd say 30
24 minutes to an hour at least, because
25 they --- but Rod and them came down.

204

01 He told me face-to-face, not over the
02 phone. He told me in person.
03 Q. To call the section?
04 A. To call the sections, yes,
05 because they were headed inside.
06 Q. Did you log down what time
07 that they left to go inside?
08 A. No. No, because --- my
09 neglect I'm sure, but I didn't.
10 Q. I just thought I'd ask.
11 A. Okay.
12 Q. The people that went inside
13 with Rod, you had mentioned, I think,
14 four names, were all those people at
15 the mine at the time this first
16 happened or had anybody came at that
17 point?
18 A. No, they were at the mine.
19 Q. Okay. How many times during
20 that shift had you talked to Mr.
21 Plumley from the time the shift
22 started?

23 A. He comes down he asks --- I
24 have to get him a spotter when he
25 comes or a personal CO monitor. I

205

01 have to get him one of them. We
02 talked and --- but as far --- after
03 he left the box cut, that was the
04 first time when we had ---.

05 Q. After he arrived on the
06 section --- when he first arrived on
07 the section, did you talk to him
08 about anything?

09 A. No, not that I can recall.

10 Q. What kind of spotter did you
11 give him?

12 A. I don't know how to
13 distinguish it as far as --- it was
14 only a --- maybe a three-gas spotter.

15 Q. Gas detector?

16 A. Yeah.

17 Q. Do you know what color it was?

18 A. What color it was? It was a
19 silver cased.

20 Q. Do you service the detectors,
21 calibrate them or anything of that
22 nature?

23 A. No.

24 Q. Are you familiar with

25 escapeways underground at the mine?

206

01 A. Not enough, I'll say that. We
02 were told in hazard training,
03 but ---.

04 Q. Do you have confidence if
05 somebody called you from a certain
06 point underground, wherever it might
07 be, that you could tell them how to
08 get in their escapeway and come
09 outside?

10 A. No. I'd hate to be the person
11 to have to tell them that.

12 Q. Okay. Have you personally
13 ever had any SCSR training?

14 A. Yes.

15 Q. And who gave you that?

16 A. S&B Mining.

17 Q. When you took your 80-hour
18 class?

19 A. Yes.

20 Q. Okay. So we were talking
21 about people on the phone during all
22 this time. And I know there's a lot
23 of excitement and --- I can only
24 imagine, but ---. So you're not sure
25 who all hollered. I mean, there

207

01 could have been people hollering that

02 you weren't aware of, ---
03 A. Yes.
04 Q. --- there was so much going
05 on? Okay.
06 MR. TUCKER:
07 That's all I have at
08 this time.
09 MR. BEITER:
10 Thanks, Bill. I just
11 have a few.
12 (Brown Exhibit D marked
13 for identification.)
14 BY MR. BEITER:
15 Q. Exhibit D, the mine map, can
16 you identify without --- there's some
17 labels that are on it in a magenta
18 color. Without those labels, could
19 you identify where Two section is ---
20 A. Yes.
21 Q. --- and the longwall?
22 A. Yes.
23 WITNESS COMPLIES
24 BY MR. BEITER:
25 Q. Do you know how often CO

01 sensors are calibrated?
02 A. No.
03 Q. Any time you get alarms on

04 some of your CO sensors, does anybody
05 ever tell you that they're doing a
06 calibration?

07 A. No, I've never had it on my
08 shift. No.

09 Q. It's never happened on your
10 shift?

11 A. No.

12 Q. Do you know if there's a
13 record of calibrations for the CO
14 sensors?

15 A. I don't know, no.

16 Q. Did you call anyone --- on the
17 night of the accident, on January
18 19th, did you call anyone, not using
19 a cell phone, but a phone number that
20 you had to call to notify someone and
21 they had a cell phone?

22 A. And they had a cell phone?

23 Q. Yes. Like you were calling a
24 cell phone number.

25 A. Gary Goff might have had.

209

01 Now, I called Gary Goff, Pepe Lester
02 and Eddie Lester.

03 Q. And they were not on the mine
04 property?

05 A. Correct, they weren't on the
06 mine property. And Gary might have

07 called back on a cell phone. I can't
08 recall. One of them did call back on
09 a cell phone.

10 Q. Do you remember when you
11 notified him as far as in the
12 sequence of events of the accident?

13 A. It was after Rod had informed
14 me ---.

15 Q. After Rod had told you ---.

16 A. The two things he informed me
17 to do was contact Gary, Eddie and
18 Pepe, and then to get the guys off
19 the section.

20 Q. So when you called the
21 section, you did that first; is that
22 correct?

23 A. Yes.

24 Q. And then how long between ---?

25 A. Oh, right after I --- right

210

01 after I knew that they were coming
02 off that section, because I --- Fred
03 took over --- like I said, Fred took
04 over the conversation. He said,
05 listen to the dispatcher. Come off
06 the section. And I hung the phone
07 up, and I proceeded to call Gary and
08 Pepe and Eddie.

09 Q. And did you contact them
10 relatively quickly?
11 A. Yes.
12 Q. All three of them?
13 A. Yes.
14 Q. Did you call 9-1-1?
15 A. No. No. I don't think I did.
16 Q. Do you know ---?
17 A. I don't believe I did, no.
18 No.
19 Q. Did you contact anyone else
20 besides those three persons off site?
21 A. No, that was all.
22 Q. Did you call MSHA?
23 A. No.
24 Q. The State of West Virginia?
25 A. No.

211

01 Q. The phone you were listening
02 to in that dispatcher's office, is it
03 like a pager phone that's
04 underground?
05 A. Yes, it's got the keypad on
06 the front to where I can alert the
07 sections.
08 Q. Does it also have a squawk
09 box?
10 A. Yes.
11 Q. So if someone else is using a

12 pager underground ---
13 A. I can hear it, yes.
14 Q. --- that pages mine-wide, you
15 can hear that page as well?
16 A. Yes.
17 Q. Do you recall hearing anyone
18 make a mine-wide page on the night of
19 the accident?
20 A. Make a ---?
21 Q. A page that came over on your
22 loudspeaker on your phone?
23 A. Just them hollering at each
24 other. Like Rod would holler at Fred
25 and Pat would holler at Rod or

212

01 something to that effect, just stuff
02 like that. Nothing --- I heard no
03 conversations, no.
04 Q. Do you know Joe Rose's voice?.
05 Do you know if you would know ---?
06 A. I'm not really familiar with
07 Joe. I could probably tell you who
08 he is if I saw him, but I don't know
09 him, no. I wouldn't recognize his
10 voice, no.
11 Q. Thank you. When you heard a
12 conversation between Mr. Horton and
13 Mr. Cabell about flames, and if I

14 remember correctly you said that Mr.
15 Cabell told Mr. Horton that there
16 were flames, and he said, say what,
17 or something similar to that.
18 A. Yeah, he ---.
19 Q. Did he --- go ahead.
20 A. Fred told him, well, get ---
21 he said, well, get to it. He said,
22 I'll try. And that's when I quit
23 listening to the mine phone.
24 Q. You didn't --- do you know if
25 that was the end of their

213

01 conversation?
02 A. I'm not for sure, no.
03 Q. Before you hung the phone up,
04 did you hear Mr. Horton say anything
05 about evacuating people?
06 A. No.
07 Q. Did you hear any conversation
08 between Mr. Cabell and Mr. Horton
09 about smoke heading inby towards
10 Number Two section?
11 A. No.
12 Q. I want to clarify something
13 because I believe that we have it in
14 here two different ways in the
15 testimony to this point. And that's
16 with regard to --- again, we're

17 trying to get a time line
18 established. And from when the first
19 sensors alarmed at 82 and 81 until
20 the sensor alarmed at 71 on the
21 48-inch belt --- do you need a --- do
22 you remember where they are?
23 A. Yeah.
24 Q. One time you said that --- let
25 me just ask you. Do you remember for

214

01 sure if your conversation with Mr.
02 Plumley on Two section, where you
03 told him it was time to leave because
04 of smoke coming in, was before or
05 after that sensor 71 on the 48-inch
06 belt alarmed?
07 A. I believe it was while it was
08 taking place maybe.
09 Q. While you were talking ---
10 A. Yes.
11 Q. --- you heard the 71 sensor
12 alarm; ---
13 A. Yes.
14 Q. --- is that correct?
15 A. Yes. I'm pretty sure. I hope
16 I'm not confusing anyone, I guess.
17 Or maybe I am.
18 Q. All you can say is what you

19 know, ---

20 A. Okay.

21 Q. --- what you remember.

22 A. Okay.

23 Q. I guess one time you said it

24 was before, one time you said it was

25 after, and I was just trying to ---

215

01 A. Okay.

02 Q. --- maybe --- you know, we had

03 a lot of conversation. And if you

04 could clarify it, that's fine. To

05 the best of your memory, I understand

06 that you're saying that you think it

07 was about the same time; ---

08 A. Right.

09 Q. --- is that correct?

10 A. Yes.

11 Q. I can understand if it's

12 difficult. I just underlined this

13 --- this is Exhibit B. And I

14 underlined the last printout on that

15 page that just showed what time 71

16 sensor went into a warning of five

17 parts per million, and that was on

18 1/19/2006, 1800:33:50. And does that

19 kind of make sense? I thought you

20 said that a little bit earlier that

21 Mr. Morrison had told you to contact

22 Mr. Plumley and tell him to evacuate
23 and that you called him approximately
24 between 30 minutes and an hour ---
25 A. Yes.

216

01 Q. --- after the fact?
02 A. Yeah.
03 Q. And the first alarm for ---
04 the first warning for 82 was like
05 1736. It would be like 5:36 p.m. on
06 the 19th. And the warning for CO
07 sensor 71 on that 48-inch belt was at
08 6:33 p.m. That's according to the
09 times on this printout; ---
10 A. Right.
11 Q. --- is that correct? I mean,
12 is that what you understand it says?
13 A. It's about an hour, right.
14 Q. It's about an hour. Does that
15 seem like that's about the amount of
16 time between ---
17 A. Yes.
18 Q. --- your recollection of when
19 the alarms went off and when you made
20 that phone call?
21 A. Yes.
22 Q. Do you feel comfortable as a
23 dispatcher with the additional

24 training that you received today ---
25 or yesterday --- I believe it was

217

01 yesterday you said you received
02 training, additional training as a
03 dispatcher?

04 A. No, I haven't received
05 training. I've just been --- we just
06 discussed it. Now, when I go in
07 today, they said today that I was
08 going to be trained on the CO
09 monitors.

10 Q. Okay. That was my
11 misunderstanding. Would you evacuate
12 anyone in the mine under any
13 circumstances today, you, yourself?

14 A. I wouldn't feel comfortable
15 doing it because I don't know ---
16 like I said, I'm not sure about the
17 escapeways and the ---.

18 Q. Okay.

19 BY MR. TUCKER:

20 Q. Got a couple more for you.
21 Did you say that Tim Dingus relieved
22 you out ---

23 A. Yes.

24 Q. --- at some point?

25 A. Yes.

218

01 Q. Okay. Was that before the
02 crew had been called?
03 A. That was after. It was after
04 they had been called.
05 Q. Okay. So that Rod Morrison
06 --- is it Rod or Rob?
07 A. Rod, R-O-D.
08 Q. Rod Morrison and Mr. Massey
09 and Terry Shadd and Ed Ellis had
10 already went underground ---
11 A. Yes.
12 Q. --- when he relieved you out?
13 A. Yes.
14 Q. Okay. Do you have a cell
15 phone there with you in the
16 dispatcher shack?
17 A. No.
18 Q. After the initial call to Two
19 section, when you and Fred were on
20 there and you were telling Mr.
21 Plumley that he had smoke coming and
22 to come off the section, do you
23 recall any other conversation on the
24 phone from anybody from Two section?
25 A. No.

219

01 Q. Did the longwall crew, anybody
02 on the longwall crew ever call out

03 and ask you what's going on?

04 A. No. I didn't know they were

05 okay until they all came out.

06 Q. So from the time that you

07 talked to Bryan Cabell, you never had

08 any conversation with anybody on the

09 longwall crew?

10 A. No.

11 Q. To the best of your knowledge,

12 do you know if anybody called the

13 longwall crew?

14 A. At that --- the night it took

15 place, I didn't know, but someone had

16 to because --- no, I'll say no.

17 Q. Okay. That's all you can

18 answer to is what you know. I

19 appreciate it.

20 MR. TUCKER:

21 Thanks a lot, Mike. I

22 appreciate your patience.

23 A. Okay.

24 MR. TUCKER:

25 That's all I have at

01 this time.

02 MR. BEITER:

03 Mark, do you have

04 any ---?

05 ATTORNEY HEATH:

06 Yes, just a couple
07 clarifying questions
08 BY ATTORNEY HEATH:
09 Q. Are you hearing all the
10 conversations that are going on
11 underground from the time of that
12 first alarm until you made your call
13 to Two section?
14 A. No. I don't hear all of them,
15 no.
16 Q. So you don't know what's being
17 discussed among the various folks?
18 A. No.
19 ATTORNEY HEATH:
20 That's all the
21 questions I have.
22 MR. BEITER:
23 I got one more.
24 BY MR. BEITER:
25 Q. When you spoke with Mr.

221

01 Plumley on the Two section, did he
02 indicate to you or did --- was it
03 your impression that that was the
04 first time that he had been notified
05 that there was a problem?
06 A. Yes, because when I told him
07 he said, do what, and then Fred took

08 over the conversation.
09 Q. If you would, please, could
10 you sign and date and initial each of
11 --- some of these have some notations
12 in them where we just identified
13 different things in it for the
14 record.

15 A. Okay.

16 Q. Could you just sign it and
17 date it? I appreciate it.

18 WITNESS COMPLIES

19 BY MR. BEITER:

20 Q. And the last one, this
21 logbook.

22 ATTORNEY HEATH:

23 You're just going to
24 have him sign that that's an
25 exhibit used in his interview?

222

01 MR. BEITER:

02 And the notations that
03 we made in there.

04 ATTORNEY HEATH:

05 And the notes you made,
06 okay.

07 MR. BEITER:

08 If he'd like to go
09 through every page, that's
10 fine.

11 ATTORNEY HEATH:

12 No, no need to. I
13 mean, I don't --- it's not
14 usual to have a witness sign
15 an exhibit. That's why ---.

16 MR. BEITER:

17 And there was no
18 notations made on any of those
19 three or the map, so there's
20 no
21 need ---.

22 ATTORNEY HEATH:

23 That is one thing we
24 might put in the record as to
25 when these photos were taken

223

01 or at least identify that it's
02 after the event.

03 MR. BEITER:

04 That would be good. In
05 fact, I did this today.
06 Exhibit F Brown also has a
07 photograph number of DSC00027.
08 Exhibit G Brown is DSC00031.
09 And Exhibit E Brown is
10 DSC00029. And those are the
11 photograph numbers of the
12 pictures that these were made

13 from. And those were taken by
14 MSHA investigators following
15 the accident.

16 ATTORNEY HEATH:

17 Recently? Can we give
18 just a week or last month or
19 anything like that? I think
20 that's helpful. Because
21 there's obviously --- there's
22 some things lit up, some
23 things aren't, if you know, if
24 you know. I'm sorry.

25 ATTORNEY BARISH:

224

01 But that will be the
02 last --- I mean, this is not a
03 witness ---.

04 MR. BEITER:

05 I've been notified that
06 it was on approximately
07 February 16th, 2006.

08 Mike, on behalf of
09 MSHA, I wish to thank you for
10 appearing here today and
11 answering our questions and
12 sharing your information about
13 the mine and the accident.
14 Your cooperation is very
15 important to us as we work to

16 determine the cause of the
17 accident and how to prevent
18 them from occurring again. If
19 you wish, you may go back now
20 over any answer that you've
21 given during your interview.
22 You also may make a closing
23 statement, covering any
24 additional points that you
25 believe need to be raised that

225

01 we didn't ask you. We ask
02 that you do not discuss your
03 interview today with anybody
04 who may have already been
05 interviewed or with anybody
06 who may be asked to give a
07 statement in the future. And
08 the reason that we ask that is
09 that this will ensure that we
10 obtain everybody's independent
11 memory of the events
12 surrounding the accident.

13 A. Yes.

14 MR. BEITER:

15 After questioning other
16 witnesses and obtaining
17 additional information, we may

18 be asking you to come back for
19 further questions. If at some
20 later point you have
21 additional information
22 regarding the accident that
23 you remember or that you would
24 like to provide to us, I ask
25 you to please contact Mr. Ken

226

01 Murray, who you were
02 introduced to earlier, or his
03 staff assistant, Anthony Webb,
04 who's behind you there. And
05 they've provided me with cards
06 that have their phone numbers
07 on them that you can contact
08 them at.

09 Mike, the Mine Act
10 provides certain protection
11 for individuals who
12 participate in accident
13 investigations. If at any
14 time you believe that you've
15 been treated unfairly because
16 of your cooperation in this
17 investigation, please
18 immediately contact Mr. Murray
19 or Mr. Webb. And again, I
20 thank you for your

21 cooperation. I'm sure Bill
22 has something.

23 MR. TUCKER:

24 I'd like to thank you
25 also, Mike, and give you one

227

01 of my cards if you need to
02 contact me. And here's a card
03 of C.A. Phillips. He's our
04 Deputy Director out of our
05 Charleston office. And you
06 know, sometimes after
07 something like this, you know,
08 you may think of something,
09 some knowledge that you have
10 that you forgot at this time.
11 If you remember it and think
12 it would be helpful, we'd
13 really appreciate if you'd
14 give us a call. And if you
15 need us for anything at all,
16 just give us a call.

17 MR. BEITER:

18 Mr. Brown, thank you
19 very much.

20 A. You're welcome.

21 * * * * *

22 SWORN STATEMENT

23 CONCLUDED 4:37 P.M.

24 * * * * *

25